

A Case study of the Commission `s resignation March 15 1999.

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Preface

As I started working with this paper a series of difficult choices had to be made. The most difficult choices revolved around what processes had the greatest effect on the Commission `s resignation, but also what theoretical contributions could best shed light on these processes. The advice I was given from various people reflected their personal interests and therefore varied greatly. It was impossible to make everybody happy. Finally I got Professor Morten Egeberg as my tutor, and as you can see this paper was completed with his help.

From a personal viewpoint I hope this paper will serve as a contribution to the debate about what the European Union is. I also hope that this paper will inspire my nephew Tobias to learn as much as possible throughout his life.

To Tobias.

List of abbreviations

CoCobu European Parliament Budget Control Committee

DG Directorate-General

ECHO European Community Humanitarian Organisation

ELDR European Liberal and Democratic Reform

EN Europe of Nations

EP European Parliament

EPP European Peoples Party

ERA European Radical Alliance

EU European Union

G Greens

IGC Intergovernmental Conference

OLAF European Anti-Fraud Investigation Office

PES Party of European Socialists

UCLAF Unité de Coordination de la Lutte Antifrude

UEL Union of European Left

UPE Union for Europe

Chapter 1.

1.1. Introduction

The Commission of the European Union resigned on March 15 1999 after a long process of turmoil. This had never happened before and the resignation and the process leading up to this event were extensively covered in the media. They often described the situation as a major crisis for the European Union (EU) as an institution. Some pointed out that this could be the start of something new, the start of an even stronger institution. What triggered this massive interest of the European Union was a whole range of issues in which funds were allegedly missing, misappropriated or badly mismanaged all entangled. Some events stood out and seemed to have an affect on the Commissions resignation. One of the things that attracted people `s attention was the alleged missing funds that was originally assigned to the European Communities Humanitarian Office (ECHO). ECHO was a unit that was created to deal with humanitarian crisis and improve the co-ordination of humanitarian aid funded by the EU. They were also suppose to make EU `s humanitarian aid more visible.

The Great Lakes Region in Africa, especially Rwanda and also former Yugoslavia were targeted as important area where human suffering would have to be relieved. According to the Commissions Unit for the Co-ordination to Fight Against Fraud (UCLAF) something went terribly wrong and 500.000 ECU went missing. As a result of UCLAF `s investigation they claimed that this money was embezzled through a firm called SSS Limited in Luxembourg, controlled by a EU official.¹

My working thesis is that the Commission `s resignation was the result of a series of actions, which is manifested in three processes:

1. The process of UCLAF
2. The process of ECHO and
3. A third process with three links: 3:A: A refusal to give discharge for the budget of 1996, 3:B Motion of Censures and 3:C The Committee of Independent Experts.

¹ Bulletin Quotidien Europe No 7300 Mon/ Tuesday 14/15 September 1998 page 16.

These actions in these processes could have been influenced by EU 's structure, more specifically the element of sector organisation in the European Union. I also think that the actions were influenced by the evolving party system in the European Union.

My goal is to explain the Commission 's resignation. In order to do so I have chosen theories such as Liberal Intergovernmentalism and Neo Institutionalism. I think these theoretical contributions can shed some light over process number 1 and 2 that runs parallel and that triggers process number 3: A, B and C leading to the Commission 's resignation, but also place this case in a broader context. It will place this case in a theoretical debate about what the EU is. There is a contrast between these two descriptions of the EU. The Liberal Intergovernmental view would outline the EU as an international institution functioning merely as a tool in the hands of utility maximising nation states² and where authority is given to the institution only to increase efficiency by the Member States.

A Neo Institutional view would emphasise EU³ autonomy and the institutions own ability to influence the decision made. It focuses on how integrated the EU⁴ is; What actually happens when the system in the EU is integrated? Is the significance of territorial units reduced?⁵ If so, what is replacing their significance? What units are then more important? Perhaps units organized according to criteria such as sector and party lines?⁶

² I have used the work of Andrew Moravcsik representing the Liberal Intergovernmental view. Moravcsik, A. (1993): "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach", *Journal of Common Market Studies* 31:473-524

³ Representing Neo Institutionalism I have used Johan P. Olsen 's work (1992): "Analysing Institutional Dynamics", *Staatwissenschaften und Staatspraxis* 3:247-271

⁴ As another representative of Neo Institutionalism I have selected the work of Morten Egeberg (2001): *The Organisational Dimension of Integration in the EU (and Elsewhere)*.

⁵ "The extent to which sub-territories are politically integrated into a larger system is reflected in the extent to which the interests of these sub-territories are expressed organisationally at the centre. Thus, in a highly integrated political system, non-territorial principles of organisational specialisation have taken clear precedence over the territorial principle at the centre." Egeberg 2001:4

⁶ Egeberg 2001:3-5

My aim is clear: To explain the resignation of the Commission as a result of a process manifested in processes 1, 2 and 3: A, B and C, by the use of Neo Institutional- and Liberal Intergovernmental lenses.

1.2. Liberal Intergovernmentalism.

Andrew Moravcsik argues that EC has developed through a series of celebrated intergovernmental bargains, each of which set the agenda for an intervening period of consolidation. If one is to explain European Integration theoretically, it is of utmost importance to explain intergovernmental bargains.⁷

To explain these bargains, Moravcsik focuses on three central issues: The assumption of rational state behaviour, a liberal theory of national preference formation, and a intergovernmentalist analysis of interstate negotiation.⁸

Lets start with the assumption of rationality.

States are perceived as rational actors. This basically means that all states are identifying what their interests are and they want to maximise their interests. They would evaluate their options and chose the alternative they think will maximise their interests. They could for instance chose to compete with other nation states or chose to co-operate to ensure that their interests are realised. Realists⁹ assume that the interests of nation states are fixed on maximising their wealth, security or power. But the nation states have different sets of resources to fight for their interests, which explain why some succeed in maximising their interests, while others fail.

⁷ Moravcsik 1993

⁸ Moravcsik 1993:480

⁹ Stanley Hoffman depicts the nature of international relations as nations or groups of nations competing for power, influence, prestige and ideas. International relationships take form of a hierarchy of the strong and the weak. Those on top at the hierarchy want to preserve their positions and those at the bottom want to rise. The key issue is the fight to be in command. Journal of Common Market Studies. Vol.3 No 2/1963 "The European Process at Atlantic Crosspurposes."

However, Moravcsik disagrees with the assumption that a nation state's preference is set in advance. According to him, nation states want to maximise their interests on the international arena, but the nation states' preferences are domestically defined.

Moravcsik bases his assumption on how nation states' preferences are formed on liberal theory. In this line of thought the interests of a nation state are constantly being revitalised and altered by different actors within the nation state. The actors on a national level are individuals or voluntary associations. There is a constant battle between the different actors.

They represent different identities and interests. Their interests will vary according to which policy area is in question. Meaning foreign policy that will inflict costs on their group they will oppose and policy coordination that will benefit their group they will support. If the cost or benefit is easily identified, they will fight harder.

However, the actor's power within the nation state, meaning their ability to force their will on others, varies. The resourcefulness of the different actors will vary and therefore their ability to be successful will vary. Hence, in this constant battle, some win and some lose. The winners get to channel their interests as the interest of the executive branch's interests. The winners define their interests as the interest of the nation state. Therefore the executive branch can be seen as an agent for the principals. The principal is the social group that managed to get their interest as the nation state's interests.

After the domestic struggle is over and one social group has won the battle, the national preferences are set. This means that the nation state's preferences do not change. As it is time for the second step, the actors, meaning the nation states, have already made up their minds. They know what their interests are.

If the nation state is for policy co-ordination, the Foreign Ministry will act to fulfil these preferences. They will take the aggregated interests up to the next level, meaning the international level and negotiate with other countries.¹⁰

¹⁰ Moravcsik refers back to the work of Roger Putnam: "Diplomacy and domestic politics: The Logic of two-level games" were Putnam argues: "The politics of many international negotiations can usefully be conceived as a two-level game. At the national level, domestic groups pursue their interests by pressuring the government to adopt favourable policies, and

They will be agents to their national principal. They attend the negotiations on behalf of the nation state and they seek to make the nation state's interests real.

The actor chose to co-operate with other nation states because they believe they are able to get their interests through in the forum of an institution.

Their task is to increase the likelihood of the nation's goals being reached.

Policy co-ordination will enable them to reach goals they can't reach on their own.

Policy co-ordination is seen as the solution. The way to make it happen is through negotiations.

Through all of this the preferences of the nation state and its agents remain the same.

Arguments from other nation states will not make them change their mind. The institution itself cannot make the actors redefine their interests.

However, identifying a policy area, participating in negotiations and enforcing an agreement are expensive. Moravcsik claims that international institutions can relieve all those obstacles. Not only can they relieve the situation, the reason why nation states create international institutions in the first place is to achieve policy co-ordination more cost efficiently. By providing rules for decision making and routines on how to settle disputes, international institutions is a cheaper solution than for example bilateral negotiations.¹¹

All these factors are seen as the reason why a nation state would want policy co-ordination. It explains the demand for the European Union.

According to Moravcsik, a fruitful way of analysing the EU is by way of regime¹² theory. International institutions are from this viewpoint a means of reducing

politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximise their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments." In Putnam's work the first level is to negotiate with the other actors, and the second level is to ratify the agreement with support from home.

¹¹ Moravcsik 1993:497

¹² Moravcsik refers back to Robert O. Keohane's work about international regimes. Keohane uses Stephen Krasner's definition on regimes. Krasner defines international regimes as "sets of implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs

transaction costs.¹³ Regimes also serve as a framework in which information is exchanged and uncertainty is reduced. The institutional framework does not have a role to play. It is passive, and only makes up the environment in which efficient intergovernmental bargaining takes place. The structures of an institution could not have its own agenda and could certainly not act to serve its interests. The institutional structures is merely the environment that surrounds decisions to co-operate¹⁴ with other states, they do not have an effect on the decisions made. Institutions promote international co-operation by being a forum where information is given and ideas are discussed; a locus for representatives of business, political parties, national bureaucracies, and interests groups to discuss issues of common concern and joint decision – making procedures. Institutions offer political and legal norms and they are monitoring and evaluating national compliance.

Moravcsik claims that the EU can be viewed as a successful intergovernmental regime, because it provides all these things.

Major accomplishments are reached as a result: - the efficiency of interstate bargaining is increased.

- EU institutions makes out the second level in a “two level game”. This allows politicians to act on the international arena with a bigger leeway than they would normally have. The politicians can act more freely because of backing by the EU institutions. Still their job is to realise national preferences, and they do so by finding solutions to common problems within the institutional frame.

Even though Mr. Moravscik considers regime theory to be a good basis for understanding the European Union, he realises that the EU goes beyond what one normally expects from a regime.

of fact, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice”. Krasner 1983:2

¹³ Transaction costs are costs of identifying issues, negotiation bargains, codifying agreements, and monitoring and enforcing the agreement. Moravcsik 1993:508.

¹⁴ Keohane argues: ” Intergovernmental co-operation takes place when the policies actually followed by one government are regarded by its partners as facilitating realization of their own objectives, as the result of a process of policy coordination. Keohane 1984:51-52-

He states that regime theory must be extended. He bases this assumption of EU as more than a regime on what he depicts as pooling and delegating of sovereignty. Sovereignty from nation states is being pooled through qualified majority voting. Semi-autonomous central institutions are delegated autonomy from the nation states. Moravcsik explains the conditions that determines in which cases nation states will prefer to make their decisions unanimously or prefer an agreement that requires an institution that pools and delegates their sovereignty.

He states that the nation states wants to realise their interests. They evaluate what solutions would work best and how much it would cost to solve their problem. They know that there is a whole line of political issues that needs to be fixed. They choose institutions with a pooling and delegating ability, if they see this as the most inexpensive solution.

However certain risks are involved. They run the risk of being outvoted in policy issues. If they get a more efficient collective decision – making on the average, they are often willing to take that risk. This solution does not provide them with a controlled form of collective decision – making. That is why some nation state would prefer unanimity voting.

The motive to co-operate is the potential gains. It can be hard to obtain ones goals if unanimity is required. Time pressure makes it harder for every actor to agree, and hence they resolve to pooling and delegating decision – making instead. If there have been several failures to reach an agreement, or decisions made earlier have not been implemented, the need to fix the problems fast will make the actors choose to have institutions that delegate and pool sovereignty. Because if status quo means that these problems are not fixed, and change means an increase of the chance that the problems would be resolved, they would chose change which means increased co-operation. They will choose to pool and delegate authority. On the other hand, pooling and delegating authority from nation states to international institutions can encourage issue linkages. Issue linkages can make it harder for social groups in nation states to find out whether they benefit or loose on an agreement. If nation states bargains under

unanimity it can be easier to find out which social group is losing on such an agreement.

If a social group or government have strong preferences and expect co-operation to increase their gains, they are probably willing to take more risks. Meaning the probability of a large downside loss, to a government or interest group. Governments are only willing to delegate and pool, when the likelihood of a political loss is low. That includes not delegating or pooling authority to a system that is biased to them. Therefore governments tend to delegate authority just enough to get their preference through.

These conditions for when unanimity or pooling and delegating of authority is chosen is reflected in three important instances: - external representation, agenda – setting and enforcement.

They need someone who can represent the EU as a whole, to third parties.

This is a role that the Commission often holds, and authority has been delegated to them to enable them to perform. However, the member governments are strictly monitoring the Commission. It is implied by Moravcsik that the governments chose to delegate, but they can just as easily withdraw the autonomy.

Supranational officials can only take independent initiatives under severe time pressure with a high probability of non-agreement.¹⁵

National governments also allow the Commission to have an agenda – setting function. Were the nation states agree, giving the Commission the authority to set the agenda, will be an efficient solution. This is wise when the national governments agree, but it is implied that it need not be the case if preferences differ.

The commission`s role is mainly to provide technical information and agenda control. The Commission is from this angle a handy tool in the hands of national governments, nothing more.

¹⁵ Moravcsik 199:511

1.3. Neo Institutionalism.

1.3.1. Institutional autonomy.

This explanation assumes that institutions are autonomic and have internal dynamics. Certain structures and processes evolve historically through selective experience and become the basis of self – organisation.¹⁶

The past does matter. Choices made earlier create paths that one often chose to follow because of the cost of defection.¹⁷ Certain experiences are made through time. One learns.¹⁸ Through this learning process, experience are gathered and manifested in procedures, routines and rules¹⁹ on how to behave in specific circumstances.²⁰ The experiences are systematically and eventually organise the institution. Because of previous development institutions can be hard to change. It can be robust towards influence from outside, but it can also be hard to change within.

The institutions are unaffected by environmental influence. They remain relatively stable and independent of the environment. Efforts to reorganise the institutions, does

¹⁶ Johan P. Olsen (1992): “Analysing Institutional Dynamics”, *Staatswissenschaften und Staatspraxis*3: 247-271

¹⁷ Paul Pierson claims the original choices that were made by decision – makers have an affect on possible changes. Possible changes are estimated according to the existing rules. The existing rules diminish the amount of options. Defecting from what already exist has a cost. This is how formed decisions create paths that decision – makers’ stick to in order to keep the cost down.

¹⁸ Simon Bulmer 1999:4 “Although they are still young, the institutions of the EU are not free of values. Embedded within them are values and norms that evolve gradually over time through learning-by-doing. Such institutional norms may have a significant impact on functions allocated to the EU are in fact operationalised. These norms and values may also be subject to stronger, political change”.

¹⁹ March & Olsen 1989: 22 “ By “rules” we mean the routines, procedures, conventions, roles, strategies, organizational forms, and technologies around which political activity is constructed. We also mean the beliefs, paradigms, codes, cultures, and knowledge that surround, support, elaborate, and contradict those roles and routines.”

²⁰ Bart Kermans claims in “Do Institutions Make a Difference? Non – Institutionalism, Neo – Institutionalism, and the Logic of Common Decision – Making in the European Union.” 1996 that: “The role of decision – makers is double. They are supposed to translate specific societal interests within the decision – making system on the one hand and to act according to the rules and norm of that system on the other hand. The last role is preserved by the system itself. By participating at and interacting during the decision – making, decision – makers increasingly internalise their role as a decision – maker” p 222.

not really change the institution. The norms and rules²¹ that are institutionalised through time are instilled in the institution and make the institution rigid.

1.3.2. Human behaviour. ²²

Human action is derived from a conception of identity or role.

Human action is not only a question of maximising ones interests.

Ones actions²³ can also be restrained by the rules of the institution. Certain perceptions of right and wrong are instilled in the institution. Those values define which actions are appropriate or not. Maximising ones interests can be appropriate to do,²⁴ but it can also keep us from maximising them.²⁵ Not only do institutions define appropriate behaviour, they can also define and change ones identity. A role is given and a purpose of that role follows. Being in that role can influence people `s perceptions of what they are and develop a sense of loyalty to the institution they represent. With the role, certain perceptions on how to behave, follows. Certain routines exist on what to do in certain situations. Appropriate behaviour and Standard Operating Procedures predict that certain choices of behaviour and action is being pursued in a certain situation. If

²¹ March & Olsen 1989:37 Rule following do not necessarily eliminate conflict. "Different actors learn different rules and concepts of appropriateness as members of different national cultures, sub communities, professions, and formal organizations. Frequently such rules are in disagreement or contradict each other. Major political conflicts are focused on which set of rules should prevail when and where."

²² March & Olsen 1989:21 "Much of the behaviour we observe in political institutions reflects the routine way in which people do what they are supposed to do. Simple stimuli trigger complex, standardized patterns of action without extensive analysis, problem solving, or use of discretionary power. Institutions have a repertoire of procedures, and they use rules to select among them. The rules may be imposed and enforced by direct coercion and political or organizational authority, or they may be part of a code of appropriate behaviour that is learned and internalised through socialization or education."

²³ March & Olsen 1989:23 states that the terminology that explains human behaviour is one of duties and obligations rather than anticipatory, consequential decision-making. " Political actors associate specific actions with specific situations by rules of appropriateness. What is appropriate for a particular person in a particular situation is defined by political and social institutions and transmitted through socialization. Search involves an inquiry into the characteristics of a particular situation, and choice involves matching a situation with behaviour that fits it."

²⁴ Christensen & Rørvik 1999

²⁵ Olsen 1989.

perceptions of appropriate behaviour or SOPs are not followed, sanctions can be made.²⁶

The standard operating procedures are also funded and the institutions themselves regulate the use of resources. In this way institutions can constrain both the behaviour of individuals as well as governments.²⁷

1.3.3. Meaning.²⁸

Meaning²⁹ and thereby an understanding of self and history, is constructed through political and social process.³⁰ History defines who we are. Through time we make experiences that explain to us what things are like and how the world works.

Going through the same experiences through time will give us a common identity. It will also instil in us a belief of what the common good is. It will affect how we define what is in our interests.³¹

So defining ones interest³² can be the end result of a learning process, not necessarily something defined rationally in advance.³³

²⁶ Elias 1939

²⁷ Walzer 1983

²⁸ The world is an ambiguous place filled with uncertainty. As individuals we interpret situations and events and we try to find the meaning of life. We interpret situations and events and we come up with explanations to why and how. These explanations evolve through time and give us an understanding of where we come from, where we are going and who we are. March & Olsen 1989:42

²⁹ We are led to a perspective that challenges the first premise of many theories of politics, the premise that life is organized around choice. Rather, we might observe that life is not only, or primarily, choice but also interpretation. Outcomes can be less significant – both behaviourally and ethically – than process. The process gives meaning to life, and meaning is a major part of life. The reason that people involved in politics devote so much time to symbols, myth, and rituals is that they (appropriately) care about them. March & Olsen 1989:51

³⁰ Olsen J. P (1992): "Analysing Institutional Dynamics", *Staatswissenschaften und Staatspraxis* 3: 247-271.

³¹ March og Olsen 1989:251

³² Clusters of beliefs and norms are formed and changed within political institutions. Values and preferences of political actors are not exogenous to political institutions but develop within those institutions. March & Olsen 1989:40

³³ Because people are trying to justify their preferences and give reasons for their preferences, they are open for persuasion, propaganda and other activities aimed at changing actor`s

To learn is to define ones interests. Learning through time gives us an idea of what we are and what serves us best. Institutions are created and upheld on the basis of those learning experiences, and we feel more at ease because institutions gives us anticipations about what is know and what will be.³⁴

Institutions do not just help us explain the present and the future, they also helps us figure out whether what goes on is wrong or right.

Institutions can be a normative outline.

1.3.4. History.

Institutions are not disconnected from history. Institutions evolve through history. The historical context has an impact and it moulds the institution. Therefore institutions are a result of history and not just a result of environment or human design.³⁵ Central to understanding an institution `s dynamics is evaluating the institution `s identity and history. The context of the past is just as important as the context of today. Certain beliefs and values are a part of that context. The values of a specific time are transcended into institutions. The institutions are carriers of these beliefs and values. Values from one time are through institutions brought to a different time, no matter whether the environment change or decision – makers try to reinvent the institution. Hence, institutions create order and continuity.

The ideas held by an institution can sometimes bounce of new ideas. New beliefs that do not match with existing beliefs can be rejected. Old ways of solving problems are preferred over new ones. Change is therefore hard. Because the instilled values in the institution will set boundaries for institutional change. Boundaries will be set by

assessments and therefore their behaviour. The institutions do more than just link preferences and choices. The institutions play a role in defining the preferences. Kerrmans p.221

³⁴ Olsen 1992: “Analysing Institutional Dynamics.”, *Staatwissenschaften und Staatspraxis* 3:247-271.

³⁵ Paul Pierson argues that institution evolve over time. This has led to unexpected outcomes of decisions made. The member countries preference `s can change, which mean that the formal structures of the institution no longer fit the countries needs. As a result gaps occur. Gaps are significant divergences between the institutional and policy preferences of member states and the actual functioning of institutions and policies. This means that the institution can gain autonomy, but the member states will try to regain control.

history, even if the environment or decision – makers want change. Change is hard and also costly. The money spent on realising goals based on identities and values makes it hard to stray away from the path that is selected previously. Starting over, choosing another path is expensive. It seems cost – efficient to use what is already there. This does not mean that institutions never change, but they do so because of a change in beliefs, norms and their interpretations of these norms and beliefs. As a result, change will be most of the time slow and incremental.³⁶

Linked to the institutional autonomy aspects, we find the contributions of Morten Egeberg. He emphasis the institutions' basic organisational principles, and argues that governance transformation can be analysed through means of organisational principles.³⁷ These principles can also explain how the actors behave. Political processes are manifested in how institutions are organised. The organisational configuration is a result of the past. Even though they do not reflect the process perfectly, the configuration is an indicator of how power is divided between the institutional units.

Once the organisational structures³⁸ are there, obviously the policy processes do not stop. The policy processes still runs through those structures. That gives the structures the opportunity to influence the policy processes, and they do.

The structures have an affect on the policy processes.

³⁶ Bart Kerremans states: "The adaptive character of institutions makes it possible to reconcile continuity and change. Society changes, institutions change as well to cope with this changing society. What is underestimated however, is the fact that the adaptive capacity of institutions and rules is low." "Neo – institutionalism assumes that adaptations to changing circumstances will be triggered by the institutions themselves and will be, therefore slow and incremental." From the article: "Do Institutions Make a Difference? Non – Institutionalism, Neo – Institutionalism, and the Logic of Common Decision – Making in the European Union"p.224.

³⁷ Luther Gulick 1937:3 "Every large-scale or complicated enterprise requires many men to carry it forward. Wherever many men are thus working together the best results are secured when there is a division of work among these men. The theory of organization, therefore, has to do with the structure of co-ordination imposed upon the work – division units of an enterprise."

³⁸ March & Olsen 1989:27 "Regardless of the way in which institutions are structured, attention is a scarce good in politics; and control over the allocation of attention is important to a political actor. By inhibiting the discovery of and entry into some potential conflicts, a structure of rules organized into relatively discrete responsibilities channels political energies into certain kinds of conflicts and away from others."

This would bring us to think that the way institutions are organised has an affect on how it works.

So if an institutional unit is organised according to the geographical area (place)³⁹ served, this institutional unit will work differently than the unit organised according to function (process), purpose (sector) or clientele (matériel).

The motivation for organizing according to geographical area is to enhance the co-ordination and control of services given in that area. It would be easier to adapt policy programs to the needs of the areas served. This would also mean that differences between the needs of different areas would be clearly expressed at headquarters.⁴⁰

In my case geographical area would mean a nation state.

Organizing principles that strengthened national differences would make it more difficult to co-ordinate policy across national boundaries.

If an institutional unit were to be organised according to purpose, this would link policy issues (sectors) across territorial units.

The accomplishment of a purpose would be paramount for the unit. The energies and loyalties of the personnel would be directed at doing their best to fulfil the purpose at hand.⁴¹

This would imply that the organizing principles have an affect on the political process within the institution. The political processes are led by these organizational principles, as water in a channel. The organising principles lead the political processes in different directions towards some actors and away from others.

In my case a geographical organization would lead the political processes towards national actors. Vice- versa a structure based on the organization principle of purpose (sector) would lead the political processes away from national actors and towards actors united by purpose across national boundaries.

The organizing principles can turn the conflicts away from the national sphere to conflicts between institutional units and sector conflicts.

³⁹ March & Olsen 1989:26 "Many of the rules within political institutions are essentially devices for partitioning politics into relatively independent domains. The classical partitioning device is citizenship based on geography, a way of dividing a large world into a large number of small states."

⁴⁰ Gulick, 1937:26-30

⁴¹ Gulick 1937:21-23

Which one of these two organisational principle dominates the centre of the institution, tells us how integrated the system is.

This means that if non – territorial principles of organisational specialisation have taken clear precedence over the territorial principle at the centre, the political system is highly integrated.

This does not mean that the territorial aspect do not exist in a highly integrated system, they are there to a less extent than non – territorial principles. Some institutional units are formally “institutions of non – territorial politics” could have certain aspects that we would normally think of as territorial.⁴²

It is assumed that different organisational structures could have an affect on the process and the decision at the end of the process. By knowing the structure, one can to a certain extent predict the outcome. If one were to change the structures from geographical specialised organisation to a purpose-specialised organisation, one would expect a shift in conflict based on geography to a conflict based on policy area.⁴³

It is not a question of one principle and not the other. Both principles will probably be found within the same unit. The consequence is that the people within these structures perceive these competing principles. They are affected by these principles. It gives them ambiguous and multiple roles and identities. Their different roles and identities make them a part of several entities or normative settings.⁴⁴

The different roles and identities do not automatically create more conflicts.⁴⁵ Crossing lines of conflicts can make them understand other decision – makers, because they are united in other issue or territorial areas. If they are, this will perhaps be an incentive to cooperate. Policy – coordination may be improved.⁴⁶

⁴² Egeberg sees the Commission as an institutional unit that is organised on the basis of non – territorial principles. Still, member governments appoint the Commissioners and national experts are in the Commission `s committees.

⁴³ Egeberg 2000:4-5.

⁴⁴ March 1994:68-33

⁴⁵ March & Olsen 1989:26 “Co-ordination across boundaries is more difficult than within them. Different sets of rules tend to evolve independently in different domains.”

⁴⁶ Egeberg 2000:5

1.4. Expected findings looking through a Liberal Intergovernmental- or a Neo Institutional lens.

So how does this apply to my case study?

As you can see, I have chosen two theoretical categories. Each theoretical category has certain characteristics. They outline different explanations as to what causes change, what the actors are, and how they behave. They explain decisions made differently. Looking through each of these lenses would give me different perspectives on the process leading up to the Commissions resignation.

I would make different assumptions on what I would see looking through each lens.

Looking through a Liberal Intergovernmental lens I would assume that the actors involved are representing nation states or someone acting with the national interest at heart.

Second I would assume that the actors are rational and that they are trying to maximise their interests.

Third I would assume that once the domestic struggle is over, the national preferences are set and their preferences do not change.

Fourth if sovereignty is transferred to the institution it is the result of the Member States choice and their motive is to increase the institution `s efficiency.

Looking through a Neo Institutional lens I would assume that the actors involved could be the institution itself or units within the institution such as the European Parliament and the Commission.

Second I would assume that the European Union or units within the institution have defined their own interest and that increased autonomy is part of that definition.

Third I would assume that the actors` behaviour is influenced by their perception of identity and role developed through time, but also by rules and procedures.

Fourth I would assume that the structures of the EU have an effect on the policy processes. If an institutional unit were to be organised according to sector, this would link policy issues across territorial units. Party lines could also have an effect on the

actors' behaviour. Both sector organisation and party lines can turn the policy processes away from the national sphere.

Fifth I would assume that the EU is highly integrated were non-territorial factors such as sector organisation and party lines are just as important as territorial ones.

1.5. Method.

As the Commission resigned 15.march 1999 I thought:

How can I explain the Commission`s resignation?

The situation previous to the Commission`s resignation seemed so complex and chaotic. It was difficult to make out how this came about.

I decided to write about the situation leading towards the resignation, hoping to be able to explain it.

My aim is clear: To explain the resignation of the Commission as a result of a process manifested in processes 1, 2 and 3:A, Band C, by the use of Neo Institutional – and Liberal Intergovernmental lenses.

Since I want to explain the resignation of the Commission, I am dealing with an explanatory case.⁴⁷

Still, I have made a detailed and “thick” description of the processes that had an important part to play in chapter 2.

What then explains that this is an explanatory case?

I had a look at a different case study by Graham Allison: “Conceptual models and the Cuban missile crisis” (1969).

Allison sets forward three conceptual models. Each model explains how Soviet missiles were detected on Cuba and how a trade blockade against Cuba came about. Model 1 outline that what must be explained is an action, i.e. the realization of some purpose of intention. Model 1 assumes that the actor is the national government and

⁴⁷ A case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident Yin 1994:13

that the actions chosen is a result of a calculated response to a strategic problem.⁴⁸

Model 1 depicts action as a unitary, rational decision-making: centrally controlled, completely informed, and value maximising.

Model 2 argues that a “government consists of a conglomerate of semi feudal, loosely allied organizations, each with a substantial life of its own”.

Model 2 government leader do sit formally, and to some extent in fact, on top of this conglomerate. Governments perceive problems through organizational sensors.

Governments define alternatives and estimate consequences as organizations process information.⁴⁹ Model 3 describes the leaders who sit on top of organizations as players in their own right in a central, competitive game. The leaders bargain along regularized channels among players positioned hierarchically within the government.⁵⁰

“What the nation does is sometimes the result of the triumph of one group over others. More often, however, different groups pulling in different directions yield a resultant distinct from what anyone intended”.⁵¹

Allison claims that he had a greater purpose than just explaining the case. He wanted to instil in us a self-conscious understanding about what observers bring to the analysis. What an observer perceives as important is not just about what happened.

The “conceptual lenses” through which we see, zooms us in to what is important.

These conceptual models have significant content of our mind.⁵²

It is not sufficient to describe what went on leading to a specific event to have explained it. It is necessary to also select which are the more important determinants of the matter at hand.

If an explanation answers the question: Why did the explanadum-phenomenon occur?

This is an explanation if I can explain that the incidence was to be expected if I

consider the circumstances and models at hand. If I see the evidence through the lenses

⁴⁸ Allison 1969:693

⁴⁹ Allison 1969:698

⁵⁰ Allison 1969:705

⁵¹ Allison 1969:707

⁵² Allison 1969:689-691

of the models and answer the question: why did this occur? Then I would have created an explanation.⁵³

Allison `s models gives us specific expectations according to which model we see thing through. As you can see the same thing is done in my case study. Models are outlined and expectations to what you will find if you see through each theoretical lens, is listed.

These models are significant not only in outlining what to expect. They also narrow the scope of what is relevant and give important messages about what kind of data material is needed. By showing what data material is needed these theoretical models will help me link the data material to my initial questions:

How can I explain the Commission `s resignation?

The models therefore help me to line up my research design.⁵⁴ The purpose of such a research design is not to end up with conclusions that does not relate to my initial questions.⁵⁵

The research design does not only keep me on the right track, it helps me realise my goal: Analytic generalisation. The theoretical level is also the level at which the generalisation of the case study results will occur.⁵⁶

Both Olsen `s and Egeberg `s version of Neo Institutionalism are rivals to Liberal Intergovernmentalism. The empirical results of the case study are compared to the rival theories Neo Institutionalism and Liberal Intergovernmentalism.⁵⁷

The point is to see which one of these explanations actually fit with my empirical data material. Which of these theoretical contributions is weakened and which is strengthened. Both theories cannot be strengthened because Liberal Intergovernmentalism and Neo Institutionalism state two different things.

A traditional argument against single-case studies is that it cannot be used to generalise to theory. This argument is based on the wrong perception of what analytic

⁵³ Allison 1969:689-691

⁵⁴ Yin 1994:19

⁵⁵ Yin 1994:20

⁵⁶ Yin 1994:30

⁵⁷ Yin 1994:31

generalization is. The case is not to be treated as a respondent in a survey. The goal is not to generalize to the universe. The point is that one single case can be used to determine whether theoretical propositions are met or not. If one case's empirical data supports one of the theoretical propositions, this theory's propositions are strengthened. By that I want to be able to generalize my case study's findings beyond the immediate case study. I want to be able to show that one of the theories propositions is strengthened, and that the opposing theoretical propositions are weakened. I do believe my single-case can be used to test theory. Apart from being able to test theory, my single-case is able to explain something unique: the Commissions resignation. It is a fact that the European Union's Commission has never resigned before.

In this case study I will follow three processes: 1: The UCLAF process, 2: the ECHO process and process 3 with three links A, B and C. Central units in the processes are the European Parliament and the Commission. I have therefore the European Union as my unit of analysis, but also the UCLAF, the ECHO, the European Parliament and the Commission as my subunits. As a result my case study has an embedded design. The subunits give my research an embedded form and help me to stick to my initial questions. I must make sure I also take a holistic view and lift my eyes from the subunits to the European Union as a whole.

I have also chosen a time interval for my case study. My timeline starts at 14. September 1998, and ends on 15. March 1999 when the Commission resigned.

1.5.1. Validity and reliability.

Lets move on to the data material gathering phase. One of the most important aspects of a research design is that the data material collected can actually be linked to the initial theoretical propositions. Therefore my theoretical propositions are guidelines for what material to collect. The clearer these theoretical propositions are, the easier it is to know what material to look for. In this phase of the research process I was concerned with constructing validity. Which would mean that the events I have chosen

to study are directly linked to the purpose of the case study. In my case this would mean that the ECHO-, UCLAF and third process A, B and C are directly linked to the Commission `s resignation.

This would also mean that I have to choose how to measure the changes in these processes. How I choose to measure these changes will have to reflect the types of changes I have decided to explain. These measures have to be valid according to what events I want to explain. The measures I choose to explain the Commissions resignation will have to be related to the processes leading to the Commissions resignation. This means that since I have chosen to study why the Commission resigned I have to justify why I am using certain text items as sources. I have to explain why these texts are valid measures of what happened in the process leading to the Commission `s resignation.⁵⁸

What can I do to strengthen my validity?

I make sure I use different kinds of sources that are independent of another and that corroborate with one another. Different sources will be linked together and portray fact. However it is important to remember that the sources I have used were not intended for my use in the first place. They were written in a different context, which originally has nothing to do with my research. Originally these documents, bulletins, press releases and Official Documents were written for different readers than myself. Each of these sources serves a different purpose than to function as my data material. The writer or writers had different intentions with their written work. I will use this material and as I do so, I take these texts out of their context. I puzzle different bits together and I check whether their stories match. I therefore construct what I believe is the facts from these text items.

For example I have used the Committee of Independent Experts` Rapport. It is a result of 6 weeks work and perhaps a bit hasty. Therefore I decided to use it to track down the original sources in the report, mainly Herbert Bösch `s report, and the Independent Experts report also brought the Court of Auditor report `s to my attention. Obviously the original sources that the Committee of experts have used are to be preferred.

⁵⁸ Yin 1994:34

European Parliament members have been active writing reports. It is important to be aware of the fact that they are members of an institutional unit and obviously they would perceive the role of the European parliament as positive. On the other hand I have used the Commission `s official press releases. They portray a situation from the Commission `s perspective, that is a situation handled in an orderly manner.

I have compared both the reports from parliament members, the Commission `s press releases and the report of the Committee of Independent Experts with one another and the version of Official Journal. I have also used a bulletin called “Bulletin Quotidien Europe” which is produced in Brussels by Europe S.A. Europe S.A. is a private international press agency. It was founded in 1952 in Luxembourg and later established themselves in Brussels. They insist on being a multinational team of journalists who deal with information independently of countries and institutions.⁵⁹

However I have checked the information in “Bulletin Quotidien Europe” with articles in “European-Voice” a newspaper that is part of the Economist Group.

By conducting an inquiry where the multiple sources of evidence converge is the best way of improving my validity.

However this has not been easy. A lot of my data material is a result of extensive search on the Internet. I have often used the European Unions own home page www.europe.eu.int. It is important to stress that each institutional unit has their own page and the facts gathered comes from these pages. That is not the same as being neutral. The texts that I have used are obviously a result of that particular unit `s views on the matter at hand.⁶⁰

Reliability is about documenting the procedures followed in the case study. The point is to minimize the errors and biases in this study.⁶¹

How do I go about documenting the procedures I have followed?

I can identify the necessary steps to be taken and describe these steps as closely as I can. This will make it easier to repeat the procedures I have followed and conclude with the same results as I. ⁶²

⁵⁹ <http://www.agence-europe.com>

⁶⁰ Dahl 1967:31-48

⁶¹ Yin 1994:36

I can enhance the reliability further by using a Case Study Protocol.

The Case Study Protocol contains an overview of the Case Study Project, Case study Questions and a Guide of what you will find in the Case Study Report.⁶³ I believe this is discussed all throughout section “Method” in this chapter.

The reliability can also be improved by creating a Case Study Database.

The Case Study Database contains information about how the Data Material is documented and organised. It is important to understand that the Case Study Database is not identical with a Case Study Report. The Case Study Report is the result of the data material gathered. It is therefore important to go back to the original data material used, to understand The Case Study Report `s conclusions. A Case Study Database could consist of several elements. In my data material collecting-phase I have created journals where I have pinpointed empirical events on a timeline. However, all of my data material is not lined up in these journals, simply because there was not room for everything. Still, it made it easier to organise my data material in time, and the other sources were plotted in on the time line as I started writing Chapter 2.

Second, all the documents, reports press releases and Bulletins are available for others to check. The journals that specify the timeline the empirical events are on and the retrievable documents make it possible to establish a Chain of Evidence. Which means that my initial questions are linked with my conclusions through the processes I have followed and described.

Let me guide you through what you will find in this Case Study Report:

In chapter 1 I have stated my aim for this case study. I have listed which theoretical propositions I have used to explain this case.

I have also discussed method issues that were relevant for the situation at hand.

In chapter 2 I will give a thorough empirical description.

In chapter 3 I will place the empirical data within the theoretical framework. Thus the Commissions resignation is explained within a theoretical framework. My aim is to

⁶² Yin 1994:37

strengthen some theoretical propositions and thereby weaken the opposing theoretical propositions.

Chapter 4 contains my concluding arguments.

Chapter 2.

2.1. Process number 1: UCLAF.

2.1.1. The history of UCLAF.

In the beginning, several DG`s (mainly 6, 20 and 21) handled the work against fraud. In 1987 the Commission decided a central co-ordination unit was needed.⁶⁴ As a result UCLAF – Unité de Coordination de la Lutte Antifrude was constituted in 1988.⁶⁵

This was an administrative unit under the General Secretariat, with teams in different directorates-generals (DG). The unit was to co-ordinate the activities of these teams; and at that stage UCLAF had only 10 officials.

A Director led the officials, and it was foreseen that more staff would be granted.⁶⁶

They did get more staff. The European Parliament entered 50 new posts for investigative staff in 1994. The posts were filled the following year.⁶⁷

With this staff a new process began – the process of centralisation.

The Commission decided to transfer the responsibilities of the different DGs in the fight against fraud to UCLAF, under the authority of a separate “ anti – fraud commissioner.”⁶⁸

Parallel with the centralisation process, UCLAF`s mandate was formed.

By 1995 certain UCLAF activities were considered important, including:

⁶⁴ Court of Auditor`s Special Report 8/1998.

⁶⁵ The European-Fraud Prevention Office http://europa.eu.int/dgs/anti_fraud/mission-en.htm.

⁶⁶ Court of Auditor`s Special Report 8 /1998.

⁶⁷ Herbert Bösch`s Report 22.09.98 A4-0297/98.

⁶⁸ Court of Auditor`s Special Report 8/1998 p.3.

- The protection of the financial interests of the community.
- The concept of the fight against fraud in all areas.
- The development of the necessary infrastructure for the fight against fraud (databases etc.)
- The collection of information concerning fraud cases and the treatment of this information.
- The operational measures (enquiries etc).⁶⁹

By 1997 UCLAF was assisting Member State prosecutors with cross – boarder prosecutions. This was a task that became more and more important as the years went by. It triggered the debate of what UCLAF `s role should be, and how UCLAF should be organised.

The debate concerning UCLAF `s independence started and the debate escalated with a growing workload and more staff.⁷⁰

What was the situation like when I start my time interval September 14 1998?

UCLAF was at the time led by a Director managing two horizontal units, supporting four different operational units. Each of the four units was organised according to separate tasks.

F1 was responsible for general policy matters, judicial questions and co-ordination, F2 for intelligence, information and evaluation of the legislation, F3 for the structural funds and other domains, F4 for import / export of agricultural products, F5 for the Common Market Organisations in Agriculture and F6 was responsible for Own Resources.

All in all UCLAF was dealing with at least 2000 cases, costing at least 3000 Mio ECU a year. The Commission spent 11,1 Mio ECU in 1997.⁷¹

⁶⁹ Court of Auditor `s Special Report 8 /1998.

⁷⁰ Herbert Bösch Report 22.09.98.p.10

⁷¹ Court of Auditor `s Special Report 8 /1998 p.11, 41-43.

2.1.2. Mr. Santer`s October speech.

Several reports had been written about UCLAF`s role, but it was one in particular that flared the debate. Herbert Bösch`s report contained information on UCLAF`s alleged lack of performance. He portrayed an institution that lacked the ability to perform in several cases. He questioned whether the institution was capable of investigating the Commission itself. President of the European Commission Mr. Santer did not approve of all the statements in the report.

He took the opportunity to express his view on 7 October 1998 during the plenary session:

When UCLAF was first created, direct inquiries were not on top of the agenda, Santer claimed. Now 950 cases are under investigation through UCLAF`s own means.⁷² He stressed that protection of EU citizens financial interest should get everyone involved.⁷³ Inaccuracies about UCLAF`s role had caused confusion, but Mr. Santer tried to explain.

He pointed out that UCLAF was administratively subject to the authority of the Secretariat – General. Its role was to co-ordinate the fight against fraud with the Member States. It should also set forward legislative proposals.

Mr. Santer said: “ I do not accept the unwarranted link made in the Bösch report between UCLAF`s alleged lack of independence and the fact that it is administratively subject to the authority of the Secretariat – General of the commission (...) I am not aware of any case in which senior management ever prevented UCLAF from carrying out investigations”.⁷⁴

Still, Mr. Santer proposed the creation of a new investigation office against external and internal fraud. “ If it is the case that because UCLAF is located within our structure it has the effect that the Commission`s fight against fraud is questioned, even denigrated, then I would prefer to move UCLAF`s investigative function outside. I am therefore proposing that we think along the lines of a Fraud Investigation

⁷² Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998 p.11

⁷³ Bulletin Quotidien Europe No 7342 Saturday 14 November 1998.

⁷⁴ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998.

Office, working both externally and internally but in total independence from the Commission and with no hierarchical relationship with it.”

Mr. Santer made it clear that he was ready to designate a senior Commission official quickly. If the other institutions wanted to prepare a proposal for a joint decision, Mr. Santer would be of service.

Mr. Santer pointed out that this new institution OLAF would require a control device. This control device would have to be based on “mutual trust between the institutions”. These institutions (the Parliament and the Commission) should have “the same rights and duties as regards participation in a supervisory body, in proposals for appointments and relations with the Office.”⁷⁵

2.1.3. Parliament responds.

The European parliament responded right away after Mr. Santer 's speech.

Mr. Bösch opened the debate by stressing how important it was for UCLAF to be independent. Separating the new OLAF completely from the Commission would however be a mistake. UCLAF would then become a satellite abandoned in space. He stated that it was not a question of “tabula rasa” and beginning from zero. The point was not to create a new institution, but to transform the existing UCLAF. This basically meant providing UCLAF with the necessary staff and resources, but also help build up databases that could be used as a tool of investigation.

Mr. Elles (British Conservative) supported Mr. Bösch `s report. Mr.Elles found it “ a little strange” that Mr. Santer should say individual sanctions could not be imposed on officials who have committed irregularities for the sole purpose of enabling their departments to function. He stated that a witch – hunt would not be constructive. Still, one had to wonder where responsibility begin and end. Officials had to be accountable. Mrs. Moreau (Communist, France) argued for UCLAF to have more independence. She stated it was not possible to be both judge and judged. Since the Commission was “demanding with Member States, it is only fair to be demanding of it”. From her point

⁷⁵ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998 p.11

of view the problem of large – scale fraud would escalate because of “ the total liberalisation of the movements of goods and capital”.⁷⁶

Both Mrs. Theato (Christian Democrat) and Mrs. D`Ancona (Socialist) disagreed that a new unit should be formed. They wanted co-operation in this field between Euro – MPs and national MPs to become stronger, but a completely new institution was not the way to go. They realised that a broader co-operation between national MPs and Euro- MPs would not receive satisfactory support at that stage.

Therefor they argued that a replacement of UCLAF was not needed. They wanted UCLAF ´s powers to be extended.⁷⁷

Mrs. Theato was greatly concerned about what she saw as lack of information. She expected the Commission to react more swiftly, and provide the EP with the necessary information. She said that the proposal for the creation of OLAF was lacking a legal basis in good and due form, but that the Parliament could not prompt the Commission to act. The need for a solid legal basis was also stressed by Mr. Holm (Greens, Sweden). He also criticised President Santer for trying, in his speech, to “ invoke the rights of officials”.

Commissioner Anita Gradin reassured the Members of Parliament that the Commission took the criticism seriously. She stressed the fact that UCLAF was only ten years old. The problems UCLAF had were because of its youth, but it was gradually turning in to something good.⁷⁸

The European Parliament voted over establishing a body that was more independent than UCLAF. 458 to 36 (11 not voting) voted for the creation of OLAF (Anti-Fraud Office).⁷⁹ The Parliament gave the Commission a final deadline. By December 1 the Commission should put present a proposition before the Council, Court of Justice and Court of Auditors.

⁷⁶ Bulletin Quotidien Europe No 7318 9 October 1998 p.15.

⁷⁷ Bulletin Quotidien Europe No 7342 Saturday 14 November 1998 p.13.

⁷⁸ Bulletin Quotidien Europ No 7318 Friday 9 October 1998.

⁷⁹ Bulletin Quotidien Europ No 7317 Thursday 8 October 1998 p.14.

2.1.4. How should OLAF be organised?

The Parliament had decided that the Commission `s proposal on the organisation of OLAF should contain certain aspects:

OLAF ought to have 300 employees altogether.

The first choice was to be “ experienced inspectors, investigators and prosecuting officers from the relevant departments in the member states.”

OLAF should have a supervisory body of five people. These should be appointed by the Parliament with the assent of the other institutions. The people in the supervisory body had to have certain qualities. They had to be independent and “posses the qualifications required for appointment to high judicial office”, or be “jurisconsults of recognised competence.”

The Commission should appoint the Director of OLAF, but after the EP `s approval.

The other institutions could also make suggestions on candidates.

The guiding principle should be the principle of decentralisation. OLAF should have departments in Brüssel and Luxembourg, with branch offices in Member States or third countries were necessary.⁸⁰

2.1.5. The Commission `s proposal in December 1998.

The proposal on the creation of a “European Anti – Fraud Investigation Office” OLAF was presented 2 December 1998 by President Santer during the Parliament plenary session.⁸¹

President Santer expressed concern about the relationship between the Commission and the European Parliament. He launched an appeal to “safeguard the climate of confidence between the Institutions and to manage our respective relations in a responsible manner.”

He said that: “I find the climate in which certain debates are unfolding worrying” and he hoped for a “serene and responsible atmosphere.”

⁸⁰ Bulletin Quotidien Europe No 7318 Friday 9 October 1998 p.14

⁸¹ Bulletin Quotidien Europe No 7326 Wednesday 21 October 1998.

He then presided to talk about the proposal to create an independent office for anti-fraud enquiries. Mr. Santer stressed that he thought UCLAF had always worked in full freedom. If one wanted to make a distinction between “ inspectors and inspected “ the logical step was to create a totally independent office, without links with the Commission or with other institutions. Awaiting the European Parliaments and the Councils decision on OLAF, UCLAF `s work would go on as usual.⁸²

According to the proposal, OLAF would only be responsible for one thing:

- Investigations of suspected fraud or corruption. The Office should be responsible for carrying out enquiries both externally, in the Member States and internally, inside all institutions of the European Union.⁸³

Internal inquiries were to be initiated by the Commission or other European bodies concerned.⁸⁴ The result of the investigation was to be handled by the institution in question.⁸⁵ External inquiries should be initiated by the Commission, at the request of Member States, or on its own initiative.⁸⁶

The commission should have no influence over the investigation as it proceeds. After the investigation has taken place, the Commission should follow up OLAF `s final report. That could mean referral to justice or administrative steps.⁸⁷

According to the Commission `s proposal, an administration board with nine members should appoint the director of OLAF.⁸⁸ Six of the members of the board should be independent experts of which three are designated by the European Parliament and three by the Council.⁸⁹

Two should be representatives from the Commission, and the last one should be a member of the Court of Auditors.⁹⁰

⁸² Bulletin Quotidien Europe No 7355 Thursday 3 December 1998 p.14.

⁸³ Rapid Text File <http://europa.eu.int/rapid/start/>

⁸⁴ Bulletin Quotidien Europe No 7355 Thursday 3 December 1998 p.8

⁸⁵ Rapid Text File <http://europa.eu.int/rapid/start/>

⁸⁶ Bulletin Quotidien Europe No 7355 Thursday 3 December 1998 p.8

⁸⁷ Rapid Text File <http://europa.eu.int/rapid/start/>

⁸⁸ Bulletin Quotidien Europe No 7355 Thursday 3 December 1998 p.8.

⁸⁹ Rapid Text File <http://europa.eu.int/rapid/start/>

⁹⁰ Bulletin Quotidien Europe No 7355 Thursday 3 December 1998 p.8

Mr. Santer concluded on this point “ that each and everyone at present assumes their responsibilities. I have assumed mine. It is up to the Parliament and the Council to assume theirs. If there is the political will, then the decision may come about within six months”.⁹¹

With this proposal the Commission was convinced that a good basis for discussion had been established. This proposal was from the Commissions point of view a platform to strengthen the protection of European taxpayer `s money.

The following debate revealed that several members of the EP were not satisfied with this proposal. Mrs. Morgan (British Labour MEP) requested a list of all the investigations on alleged fraud. Mr. Santer replied that in principle “ there was nothing to oppose this “, but that such information cannot be “ divulged inconsiderately”. An inquiry in itself does not mean there is fraud.

Mr. Bösch (Austrian Social Democrat) had asked for a strengthening of UCLAF `s independence. He did not want the creation of a separate body. He claimed: “your proposal has nothing to with my report”.

Mr. Santer replied “we have exceeded your proposal”.

There was a general dissatisfaction among the Parliament members with the proposal. Mr. Tillich (German Christian Democrat) expressed the general dissatisfaction when he said “ you are simply taking us for fools,” referring to Mr. Santer `s statements.

The Commission `s proposal was received coolly at the Parliament `s Committee on Budgetary Control (CoCobu) as well.

Mr. Bösch thought that the proposal was a step backwards, while the Parliament would like a more transparent, rapid and effective mechanism. The proposal was too complex and not very realistic. The Members of Parliament was concerned about what the institution `s relationship towards the Parliament would be. They were concerned about its future relationship with the Court of Auditors.

Questions were also asked about how the new institution would perform their internal inquiries, and how they would get the necessary staff. Mr. Timmermans (Chairman of

⁹¹ Bulletin Quotidien Europe No 7355 Thursday 3 December 1998 p.14

UCLAF) stressed that the most important factor was the new institution `s independence.⁹²

The Commission `s first draft on how one should organise the fight against fraud was not agreed on. The Commission, the Council and the European Parliament consulted and agreed of the creation of a High – Level Group, consisting of Members from the Commission, the Council and the European Parliament.⁹³ The Commission sent three representatives, Commissioners Anita Gradin, Mario Monti and Karel Van Miert. This inter – institutional High – Level Group was to examine the Commission `s proposal and to reach a consensus on a set of recommendations for the structure of OLAF.⁹⁴

On the Conference of Presidents at the end of January 1999, Mr. Santer said that it was “urgent” that the new Committee “created under the auspices of the Parliament and the Commission” began its work. It was important for the Committee to be seen to have the full approval and co-operation of our two institutions.” He confirmed that “ at political level, Vice – President Brittan and I will be at the at the Committee `s disposal as “ interlocutors.”⁹⁵

2.1.6. The results of the High – Level group `s work.

The inter – institutional agreement was reached on Sunday evening 14 march 1999. This proposal was the result of discussions between Parliament, the Council and the Commission. The executive branch, represented by Commissioners Gradin, Van Miert and Monti, led the discussion. This agreement stated that the new Office would remain within the Commission.

Commissioner Karel Van Miert recalled that the Commission initially wanted to create a body legally independent of the Commission, but that both Parliament and the Member States (“except for the Netherlands”) had been against this. He said that:

⁹² Bulletin Quotidien Europe No 7388 Friday 22 January 1999 p.15

⁹³ Bulletin Quotidien Europe No 7391 Wednesday 27 January 1999.

⁹⁴ Rapid Text File <http://www.europa.eu.int/rapid/start DN:IP/99/181>

⁹⁵ Bulletin Quotidien Europe No 7393 Friday 29 January 1999p.6.

“The Fraud prevention Office or Agency will remain within the Commission as Parliament and the Council requests this.”

Even though the new institution OLAF would still be within the Commission, the Director would still make important decisions on his or her own. The Director can initiate an investigation in all Community institutions or bodies, and decide whether cases should be sent to legal authorities.

The Director will be appointed for a five – year period. The Director `s time in office can be renewed one time. It is the Commission in agreement with the Parliament and the Council, which appoints him or her.

The Director `s independence was manifested in the Commission communication accompanying the draft regulation:

The Director “ may neither seek nor take instructions “concerning investigations. Apart from internal investigations the Office will also be responsible for external investigations in Member States and third countries for cases of fraud to the Community budget. External investigations cannot however excel the Commission `s powers in this matter.

OLAF should also according to the inter-institutional agreement develop the legal framework of the fight against fraud.

A surveillance committee made up of five or six experts in fraud – prevention will control the Office. These experts will be independent and appointed by the Commission, the Council and the Parliament.⁹⁶

In a press conference on 16 March 1999, Mrs. Dietmut Theato welcomed the proposal for setting up an independent anti – fraud Office (OLAF). She saw this as moving in the right direction. She expressed that she hoped the European Commission `s proposal would be approved along the lines of the inter-institutional agreement.⁹⁷

⁹⁶ Bulletin Quotidien Europe No 7427 Thursday 18 March 1999.

⁹⁷ Bulletin Quotidien Europe No 7426 Wednesday 17 March 1999.

2.2. Process number 2: ECHO

2.2.1. The history of ECHO.

The European Union is an important contributor to under developed countries: A large proportion of this help is humanitarian aid. The humanitarian aid is needed for different reasons, but basically because of natural catastrophes or armed conflicts. In the early 1990s two conflicts, the wars in the former Yugoslavia and the conflicts in Rwanda had one thing in common. There was a conflict of interest between different ethnic groups. These conflicts led to acts of violence. The violent acts led to massive migration. The refugees were forced to flee to areas which had very limited resources.⁹⁸

The Commission wanted at that time to improve its co-ordination of humanitarian aid projects. They specifically wanted to improve the projects effectiveness and they also wanted their aid to be more noticeable.

The Commission decided to found the European Union Humanitarian Office (ECHO) on 6 November 1991. ECHO was to be of service when a rapid response was needed, either as a result of human conflicts or natural disasters.

ECHO was, according to the Commission's plan, to be evaluated after seven years.

After a thorough evaluation, they would know if they should continue or dissolve the institution.⁹⁹

Certain goals were set for ECHO.

The necessary expertise was to be gathered in one administrative unit. ECHO was to be used by the European union as a tool. ECHO would enable the European Union to intervene more directly were the crisis occurred. ECHO would be able to relieve the situation in each of the crisis phases. They would be present in the field assessing the needs. They would mobilise people, food and equipment needed. They would control the aid and evaluate the situation afterwards. ECHO would also co-ordinate the efforts made by Member States, Non-governmental organisations and International

⁹⁸ De Europæiske Fællesskabers Tiende Nr.C143 p.3

⁹⁹ De Europæiske Fællesskabers Tiende Nr. C143.p3.

organisations. The co-operation would be manifested in the use of frame contracts.¹⁰⁰

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ECHO `s mandate was expanded from the beginning of 1993 and they were at this time responsible for food supplies. Traditionally DG 8/5 and DG 8/B1 had taken care of several things, food supplies included. As these assignments were transferred to ECHO, a substantial number of staff formerly hired by DG 8 started working for ECHO. This meant that ECHO was ready to take on its responsibility swiftly. Unfortunately they did not stay on. A large proportion of the original staff left ECHO between 1993 and 1995. New people were hired, but did not have the same experience as those who left.

Still, ECHO `s responsibilities grew. Those who did get hired were not nearly enough. Some vacancies were filled, but not enough. This meant that temporarily employed staff was used extensively (44 were temporarily employed in 1994 and 36 in 1995). By the end of 1995, 43 % of the staff was on temporarily contracts, which lasted for 3 years at the most. Some were hired for a year, and some for only a few months.¹⁰²

As a result of UCLAF `s investigations a former Head of a financial unit was suspended in July 1998. But the administrative inquiry concerning the other people dealt with in UCLAF `s investigation, did not begin until 14 September 1998. The file on this issue was forwarded to the Luxembourg authorities.¹⁰³

An administrative inquiry was opened and the pressure against the responsible Commissioner started to rise.

The European Commission spokesman responded to the rising pressure and confirmed that the Commissioners responsible for ECHO and the fight against fraud were prepared to appear “as soon as possible” before the European Parliament Committee on Budgetary Control. The Commissioners responsible for ECHO in 1995, Manuel Marin, and at present, Emma Bonino, Erkki Liikanen (the Commissioner in

¹⁰⁰ De Europæiske Fællesskabers Tiende nr.C143.p.4.

¹⁰¹ A frame contract is an agreement on the terms of ECHO `s financing of projects and the procedures ECHO `s partners are to follow when they produce reports on progress and fiscal reports.

¹⁰² De Europæiske Fællesskabers Tiende Nr. C 143 p.15.

¹⁰³ First Report of the Committee of Independent Experts 15.03.99 p.8

charge of internal sanctions at the Commission) Anita Gradin and (the effort to control fraud) would present a “ non - deformed version “ of the inquiry under way on fraud in the Community Humanitarian Office ECHO. They would do so on Committee of Budgetary Control `s meeting led by Mrs. Theato.¹⁰⁴

The pressure against the Commission took a turn for the worse at a press conference led by Edith Müller (Member of the European Parliament for the German Green). The topic was a Special Report by the Court of Auditors about ECHO from 1992 to 1995. Mrs. Müller found it particularly interesting that the Commission made certain facts clear in its response to this report. According to Mrs. Müller the Commission admitted that Manuel Marin (Commissioner with responsibility for ECHO at the time) knew in February 1994 that some staff at the Humanitarian Office were being paid out of operating credits (“mini-budgets”). Mrs. Müller further stated that the Commission had admitted that there had been an exchange of letters between Mr. Marin and Karel Van Miert (responsible at the time for personnel and administration). In these letters, Karel Van Miert had expressed concern about the practice of using mini-budgets as early as February 1994. The fact that the Commission had admitted this was positive. Mrs. Müller saw the Commission `s openness on this issue as progress.¹⁰⁵

All four of the Commissioners held a press conference on 17 September 1998 to explain the situation after meeting with the European Parliament Budget Control Committee (CoCobu).

According to Emma Bonino certain administrative malfunctions were inadmissible. ECHO had in the past paid external staff members (27officials) out of its operating budget, instead of its administrative budget.

“These were technical assistance contracts, some of which were used to run ECHO. The Commission used funds in an irregular manner to keep the system operating”, Mrs. Bonino admitted.

¹⁰⁴ Bulletin Quotidien Europe No 73 Monday / Tuesday 14&15 September 1998.

¹⁰⁵ Bulletin Quotidien Europe No 7301 Wednesday 16 September 1998.

Emma Bonino was concerned about how the situation was portrayed by the press. She disapproved of the “ frankly intolerable “ level of “ ill – will and deceit” involved in some of the press` publications. From Mrs. Bonino`s point of view “ the Commission has shown that it is capable of auditing itself. It was neither the Parliament, nor Edith Müller, nor the Court of Auditors that discovered that something was wrong at the Commission. It was the Commission`s Anti – Fraud Unit itself.”

She also commented on the suspension of one ECHO official, and expressed bitter regret that other officials who did their work correctly had been personally cited in the press.

When irregularities occurred, Manuel Marin was the Commissioner responsible for ECHO. He stressed that EU basically dealt with crises in Yugoslavia and Rwanda through humanitarian aid. The fact that the EU considered humanitarian aid as the tool to relive the situation, caused a sharp increase in ECHO`s funding. However, the increase in the number of staff did not increase accordingly. Too few people were hired to administer the aid. In 1992, 43 people managed 368 million ECUs; by 1993, this sum had doubled and 51 people were in charge of 605 million ECUs. By 1994, 63 officials were responsible for 764 Million ECUs, Marin explained.

In 1994 the director of ECHO together with the administrative services made a plan. This was a plan on how to handle the situation with 27 external staff members, all with salaries from ECHO operating funds. Marin said he had corresponded with Karel Van Miert on how new rules could be applied.¹⁰⁶

Erkki Liikanen, the Commissioner in charge of administration in my time interval, claimed that the Commission had worked to abolish the system of “ Mini – budgets”¹⁰⁷ “since the early 1990s. He said that the only operational research funds and structural funds, along with the Tacis, Phare and Meda funds could now be used to cover administrative costs. If there still were credits used for administration, this could be

¹⁰⁶ Karel Van Miert was at the time the Commissioner responsible for administration.

¹⁰⁷ When the staffs is paid from the operating funds.

revealed in an investigation by the Commission. The Commission would know the results shortly and would forward the information to the European Parliament during the fall, Liikanen indicated.¹⁰⁸

By the end of September the relationship between the Commission and the European Parliament was strained. Jose Maria Gil Robles and Jaques Santer had a meeting to address various issues concerning co-operation between the two institutions. The discussion included among other things the ECHO programme.

A press release states:¹⁰⁹ “The two Presidents consider it vital for the Commission to provide Parliament with all necessary information “ and Parliament will adopt the “ measures required for this information to be dealt with while observing the strictest respect for individual rights, using the possibilities offered by the European Parliament `s Rules of Procedure.”¹¹⁰

2 October 1998 the Commission spokesman confirmed that the Commission decided to suspend an official. This official allegedly awarded a contract to his wife. The contract given was connected to ECHO projects. Parallel with this suspension, the matter was forwarded to the Courts in Luxembourg. The Courts in Luxembourg were to evaluate the possible penal implications.¹¹¹

The very same day the Commission approved a package of 942,000 ECU. The Democratic Republic of Congo was undergoing a crisis.

There was a serious conflict within the country. The money was needed to support hospitals all over the country, but also to re- activate food programmes.¹¹² The aid was to be governed by ECHO in co-operation with non-governmental organisations.¹¹³

¹⁰⁸ Bulletin Quotidien Europe No 7303 Friday 18 September 1998 p.8.

¹⁰⁹ Issued by President Gil-Robles` Cabinet.

¹¹⁰ Rules of Procedure set out the procedure for examination of confidential documents.

¹¹¹ Bulletin Quotidien Europe No 7314 Saturday 3 October 1998 p.10.

¹¹² Rapid Text File DN:IP/98/861 02.10.1998.

Allegations were made in the press that the funding of ECHO was a waste of money. The European Commission spokesman strongly refuted these allegations. He said that some newspapers took note of the fact that the financing of humanitarian aid was granted without prior control. From that they derived the conclusion that all the money granted was subjected to fraud.

This conclusion was wrong, stated the spokesman. The humanitarian aid was managed according to ad hoc procedures. This was because of the nature of humanitarian aid. Humanitarian aid is needed fast. A rapid response is very important. If one were to ask for all the documents justifying the aid in advance, there would simply be no more humanitarian aid.

Hence, funding was based on trust between ECHO and its partners: United Nations, Member States agencies, NGOs.

Controls were carried out first of all a priori (at the time when partners were chosen) and then a posteriori on the implementation of actions financed. From the spokesperson's point of view, the control system was perfect with the collaboration of the Court of Auditors and the Member States.¹¹⁴

2.2.2. Mr. Santer's October speech.

Mr. Santer took the opportunity to discuss ECHO's situation as well in his speech on 7 October 1998. He addressed the situation generally and said: "I can agree to a more extensive and comprehensive disclosure to enable Parliament to fully carry out its role as budget watchdog. However, greater disclosure of information must be done within the law, taking account of the presumption of innocence and the confidentiality of legal investigations".¹¹⁵

Mr. Santer expressed that there was an "intolerable insinuation" in the Bösch report. The Bösch report insinuated that the European Union "has a tendency to cover up cases of corruption in its own ranks", Santer said. "I take it as a personal attack

¹¹³ Rapid Text File DN:IP/98/861 02.10.1998.

¹¹⁴ Bulletin Quotidien Europe No 7315 Monday / Tuesday 5 & 6 October 1998.

¹¹⁵ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998 p.11

which I absolutely refute and which is not borne out by the facts”.

He recalled that it was the same Commission who thanks to the work of UCLAF, revealed the case of fraud concerning ECHO. It was also the same Commission who transmitted the dossier on ECHO to the judicial authorities.

Mr. Santer continued with a list of what the Commission had done to improve the situation. They had among other things approved new guidelines on tougher action against professional misconduct, financial irregularities, fraud and corruption. The Commission had given the UCLAF inspectors new guidelines on how to go about in investigations. Since 1995 the Commission had dealt with 49 disciplinary cases related to cases of fraud or “ reprehensible behaviour”. As a result 8 officials were removed, 2 officials were downgraded, 4 officials were relegated to a lower step. Reprimands were given to 11 officials and 4 officials had received written warnings.

Hence, one cannot say that the Commission “ ever tolerated or tried to cover up any form of corruption” Santer said.

However, all institutions needed to “ get to grips with the “ grey area “ of favouritism and conflicting interests. “ He continued: “ Let us pledge ourselves to work together to instil a sense of morality at all levels in the institutions.”

Still, Mr. Santer made it crystal clear that he was not willing to conduct a “ blind unsubstantiated witch – hunt “ or “ sit back and see the tarnishing of the excellent image that the Union `s humanitarian aid has acquired throughout the whole world.”

As Mr. Santer saw things, fraud and administrative irregularities were not the same things.

Fraud and administrative irregularities should not be placed on an equal footing. Obviously he did not support administrative irregularities. His point was that there were “ reasons why some departments were forced into looking for ways of administering their funds flexibly, not to say acrobatically in some cases.”

As he remembered things, the Council gave new and heavy responsibilities to the Commission at the beginning of the nineties. These new responsibilities were often outside the Union, they urgently needed attention, and the resources immediately available meagre.

This explained these administrative acrobatics, which needed to be stopped. The correct response was according to Mr. Santer, not to “impose individual sanctions on officials who commit these irregularities for the sole purpose of keeping departments running.” In 1992 the Commission had decided to put an end to administrative irregularities by ending the use of mini – budgets. “The practice of using mini – budgets stopped in June 1995,” Santer reassured the Parliament members. He had also “asked every Director General for a check to be made under their own responsibility.” The results of these checks would be handed over to the Parliament. If there still were problems, the Commission would find solutions, Mr. Santer claimed.¹¹⁶

2.2.3. A Press Conference by the Parliament.

The day after Mr. Santer`s speech, Members of Parliament held a press conference in which Magda Aelvoet (Chairperson of the Green Group) stated her views.

She stressed the fact that the Parliament`s role was to control the Commission. This required that the Parliament were fully informed. The Parliament should demand to see the documents the “Commission is hiding.”

Only then would the Parliament do as the voters expected. If the Commission were unwilling to give them the information, the Parliament would have to “get the knives out.”¹¹⁷

Edith Müller (German Green) approached the matter differently. She argued that it was not just the ECHO affair. The scandal of the EU humanitarian office was “exemplary”, but the problem was a general one and could be related to a number of cases. Mrs. Müller claimed that the Members of Parliament knew about false contracts and fictitious reports that were kept from them. The Commission`s lack of trust towards the Parliament caused a “culture of mistrust.” The result was an “institutional crisis.” Mrs. Müller assured that the Parliament did not want to discredit humanitarian aid. The Parliament wanted to do the opposite. They wanted to found the EU

¹¹⁶ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998 p.11-12

¹¹⁷ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998 p.12.

humanitarian aid on a solid platform. She asked the Commission to make the UCLAF report available to the Parliament. A copy should be made to the EP Committee on Budgetary Control. If they did not do so, the Parliament would have to evaluate its options. One option was to refuse discharge of the 1996 budget.

Mrs. Müller thought it was too early to speak of the possibility of censure.

According to Mrs. Müller, assuming one's responsibility should mean drawing the personal consequences. She noticed that Commissioners were unwilling to do so.

Then President Santer must ask those responsible for the ECHO case to account for it.

Edith Müller added: "If Mrs. Bonino thinks that, with the simple phrase "of course the Commission takes on its responsibilities" that she can calmly go on to something else, she has apparently not understood what political responsibility really means."¹¹⁸

By mid October the Commission made new concessions in the ECHO case. The Commission confirmed that there had been internal controls within the European Community Humanitarian Office. These controls revealed suspected cases of fraud or at least of misappropriations. A spokesman stated that as a result of regular internal audit, 5 contracts were seen as problematic. These contracts dated back to 1992 – 1995. The Commission's anti fraud fighting unit, UCLAF, had been notified.¹¹⁹

This increased some MEP's reluctance to release ECHO credits. Stanislav Tillich and Juan Manuel Fabra Valles thought it was necessary that certain conditions were met, before the credits were released. The most important condition was that President Santer kept his promises from his speech on 7 October 1998. The Commission should make sure that all the information that UCLAF had was placed at the disposal of the competent courts. Both Mr. Tillich and Mr. Fabra Valles defended themselves against accusations from members of the Socialist Group. It was "indecent" that they accused EPP of jeopardising ECHO action. When clearly they wanted ECHO to perform with the utmost effectiveness and transparency.

¹¹⁸ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998 p. 12.

¹¹⁹ Bulletin Quotidien Europe No 7320 Monday / Tuesday 12 & 13 October 1998.

The Committee on Budgets were also unhappy about how the Commission had handled the investigations into cases of suspected fraud. They were particular unhappy with what they regarded as inadequate transparency. The lack of information made the members of the Committee on Budgets unwilling to refrain from blocking the 1999 credits for ECHO humanitarian assistance.

President Santer argued in a letter to Parliament President Gil-Robles against the block of funds. Mr. Santer stated that Article 206 of the EC Treaty instructs the Commission to submit to the European Parliament all the information necessary. Article 206 also states the need to respect the right to protection of privacy, presumption of innocence and the secrecy of legal proceedings in Member States. But Mr. Santer would be sure to give Article 206 “its full effect” in the fight against fraud. Mr. Santer made specific suggestions on how the Committee on Budget Control should be informed. If there were presumptions of fraud after an investigation, the final report would be made by the Director of UCLAF. The report would be given to the Committee on Budgetary Control, before being referred to the legal authorities.

However, the names of the suspected officials, private people or companies would not be found in the report, because of their right to protection of privacy and presumption of innocence.¹²⁰

The Committee on Budgetary Control instructed its Chair Diemut Theato to draw up a report on the handling of documents the Commission forwarded to Parliament. These reports were needed so the Parliament could control the execution of the EU budget. Mrs. Theato stressed that the European Commission was not to make a prior “selection” of the documents it provided to the Parliament. Parliament was entitled to and needed access to all the documents, as “the one being examined must not decide on what it will be examined”, Mrs. Theato said. The Commission could not expect to receive the discharge “automatically”. Mrs. Theato recalled that the Parliament had postponed the discharge earlier.¹²¹

¹²⁰ Bulletin Quotidien Europe No 7325 Monday / Tuesday 19 & 20 October 1998.

¹²¹ Bulletin Quotidien Europe No 7339 Monday / Tuesday 9&10 November 1998 p.15.

In the evening of Monday 19 October 1998 in Strasbourg, the Committee on Budgets was to vote over what to do with 330 million euros maintained in reserve. James Elles (British Conservative) thought that Mr. Santer had made progress. Elles said President Santer had “fulfilled the conditions” set by parliament. He would recommend that his group (EPP) vote at first reading on 22 October at the plenary session, for the release of the ECHO credits. This is a “significant victory” for the European Parliament, which has always called for greater transparency.

Gianfranco Dell’Alba (European Radical Alliance, Italy) wanted the credits to be released as well. He railed against the “blackmail at the expense of one of the most significant programmes implemented by the EU in six years”.

Hevre Fabre – Aubrespy was also very critical (on behalf of the Europe of Nations group) of the “tactics” used by the European Parliament Committee on Budgets with regard to humanitarian aid and the use of reserves. “I do not agree to taxpayers, i.e. Member States, being taken hostage”, he said.

Edith Müller welcomed the dropping of “all legal reservations” by the Commission. From her viewpoint the Commission had used legal reservations to justify its decision not to make certain documents available to Parliament. However, according to Mrs. Müller, Mr. Santer’s latest statements were not enough. This was the reason why Mrs. Müller wanted to keep 30% of the funds in question in reserve. This would enable The Committee on Budgetary Control to examine in detail the content of Mr. Santer’s letter and its implications. “Tell Mr. Santer that there is no worse lie than half-truths”, Juan Manuel Fabra Valles exclaimed. By that he supported Mrs. Müller’s scepticism. The Commission gave Mr. Fabra Valles access to the files he wanted, but he was not given the assistance of a translator. He also criticised the Commission for not wanting to mention the names of the officials involved. There was no point in keeping them secret, when their names were all over the newspapers, according to Mr. Fabra Valles.¹²²

¹²² Bulletin Quotidien Europe No 7326 Wednesday 21 October 1998.

2.3. Process number 3: A: A Refusal to Give Discharge for the Budget of 1996.

In Mr. Santer `s December speech, he also addressed the matter of transparency in the ECHO case. From his point of view, he had forwarded all the documents to the European Parliament. However, respect for the principle of sub justice¹²³ and individuals rights to protect their private life, was of the utmost importance. The ECHO dossier had been made available to the Chair of the relevant parliamentary committee and to Parliamentary reporters. Therefore the transparency was complete within the limits of sub justice and individual rights. Mr. Santer enhanced the need for a constructive spirit between Parliament and Commission. To make the constructive spirit stronger, Mr. Santer offered to establish a code of conduct.

By giving the Parliament the information of the ECHO case and by offering to create new codes of conduct, Mr. Santer saw no reason why the 1996 budget would not receive discharge. He considered that “all the objective reasons are there to grant the Commission its discharge” for the 1996 budget.¹²⁴

Mrs. Aelvoet, President of the Green Group in the European Parliament, declared that her group regarded it “unacceptable” that the EP should grant the Commission discharge for the 1996 budget, given the cases of suspected fraud. She had been given a document of an official, which she in turn handed to the press.¹²⁵ The official, an assistant at the Commission `s Financial Control Unit, believed it was his duty “as a loyal official and a Christian” to pass the document on to Mrs. Aelvoet. The document allegedly states that the Commission has systematically passed on instances of fraud as “irregularities” and has refrained from prosecuting the officials held responsible by the institutions `s own anti-fraud unit UCLAF.¹²⁶ The document implies that an Internal Memoranda by the Financial Control Unit ordered the internal Auditors to limit their

¹²³ Matters that are the subject of judicial and disciplinary procedures.

¹²⁴ Bulletin Quotidien Europe No 7355 Thursday 3 December 1998.

¹²⁵ Bulletin Quotidien Europe No 7360 Thursday 10 December 1998 p.12.

¹²⁶ European Voice Volume 4 Number 45 10.12.98 “Cover up claim bolsters critics of Fraud” by Mules Neligan.

scope of investigations in the ECHO case. Hence, the irregularities continued.¹²⁷

Aelvoet said that the allegations were so serious that she could not rule out a Parliamentary motion of censure against the institution. This confirms my view that the Commission is withholding information from the European Parliament and suppressing information internally,” she said.¹²⁸

Magda Aelvoet therefore stated that the Commission had not forwarded all available information to the European Parliament Committee on Budgetary Control and that certain investigations had allegedly been hushed up.

Mr. Santer replied to these allegations in a letter to European Parliament President Jose Maria Gil Robles. Mr. Santer wrote: “ If the European Parliament Committee on Budgetary Control deems it useful, Mrs. Ventura, Financial Controller at the Commission, and Mr. Knudsen, Director of UCLAF, are available on Thursday to present any clarifications needed on the matters in question, on which the Commission has taken the occasion to provide exhaustive information to the European Parliament on several occasions, moreover.”¹²⁹

Pauline Green, the leader of the Socialist Group at the European Parliament, had exchanged letters with President Santer on the subject of the “culture” of the European Commission. She particularly enhanced the public `s perception of the European Commission, its culture and its management ethos. The view of her Group was that “the relationship between the Parliament and the Commission should be placed on a more mature footing.” Pauline Green argued that the climate between the two institutions at that time concerning fraud and mismanagement had been “exacerbated by the perception of an insecure, defensive and secretive culture”. Further she argued that there is an obvious need to develop a more uniform administrative culture within the European bureaucracy. She stated the need for Mr. Santer to describe how the Commission, under his Presidency, “has acted to develop a strategy for change”.

¹²⁷ Bulletin Quotidien Europe No 7360 Thursday 10 December 1998 p.12.

¹²⁸ European Voice Volum 4 Number 5410.12.98. “Cover –up claim bolsters critics of Fraud” by Mules Neligan.

¹²⁹ Bulletin Quotidien Europe No 7361 Friday 11 December 1998.

In Mr. Santer`s reply he explained that he had initiated several reforms in 1995, the very same year he arrived in Brüssels. Since the end of 1980s the Commission got new responsibilities. They were inexperienced in handling these tasks. He admitted that these new tasks and lack of experience “has at times led us to improvise”.

Also: “because our administration is made up of many nationalities and has had to face rapid change, there is naturally a need to reassess and anticipate that change.” He concluded by writing: “I have always believed that the Parliament and the Commission should be allies in the process of European unification. Each of us has its own role to play. I hope that this can be done in the spirit of openness, confidence and mutual respect”.¹³⁰

The European Parliament Committee on Budgetary Control voted 14 to 13 to give the Commission discharge for the 1996 budget.¹³¹ Those in favour of discharge included 7 socialist, 4 EPP, 1 ERA and 2 Liberal Group members. Those against included 2 socialists, 6 EPP, 1 Green, 2 UFE, and 1 Liberal Group member. The CoCobu recommended that the EP would grant the Commission discharge for the 1996 budget. However, they called for Commission initiatives on issues like:

- Setting in place the independent Anti- Fraud Office according to the guidelines of the Bösch report.
- The presentation of a draft on code of conduct for the appointment of senior officials.¹³²

The following debate in the European parliament all together, was also very divergent. They had requested further information from the Commission about several points. Two of these were issues about the fight against fraud within the Commission and the bad management of foreign policy programmes.

¹³⁰ Bulletin Quotidien Europe No 7372 Monday / Tuesday 28 &29 December.

¹³¹ According to James Elle`s A4-0502/98 report about the discharge of the 1996 budget, these were the people voting in the Committee on Budget Control on 10 December 1998: Theato, Blak, Tomlinson, Grosch, Elles, Bardong, Bösch Colom I Naval, Dankert (for Morgan), Dell`Alba, Feret (for Le Gallon), Garriga Polledo, Holm, Jean Pierre, Kellet-Bowman, Kjer Hansen, Mulder, Pasty (for Giansily), Rack, Rendodo, Jiménez, Sandberg-Fries, Sartis, Seppänen (for Miranda), Tappin, Virrankoski (for DeLuca), Wemheurer and Wynn.

¹³² Bulletin Quotidien Europe No 7361 Friday 11 December 1998 p.9.

In the debate about the 1996 budget, Mrs. Green referred to her correspondence with Mr. Santer. She claimed the debate went beyond the question whether to give discharge to the 1996 budget or not. The important issue was not just the budget itself, but the Commission's "culture" that is "defensive, insecure and secretive". She further stated that fifteen "national cultures" coexisted within the European Commission, which had been unable to develop a "European administrative culture". However, if the European Parliament refused the discharge, this would mean that they considered the Commission to be financially incompetent. "The next logical step would then be to table a motion of censure". This was not a desirable situation as it was the Commission who had opened up to the Parliament. The Commission had "enabled us to identify some of the problems," Mrs. Green stated. Furthermore, her Group did not work on "leaked information"; "it's irresponsible to accept such information without verifying it". About 75% of the Socialists would vote in favour of the discharge, Mrs. Green suggested.

It was pointed out to her that Klaus Hänsch (German Social Democrat)¹³³, had said that the Commission should resign. Mrs. Green replies that the vote of the Socialist Group on this issue was "very clear", and that "Klaus knows it now", even if he obviously may have another opinion than that of the majority.¹³⁴

Mr. Elles accused the President of the Socialist Group, Pauline Green, of misleading her Group. She supposedly said that refusing the discharge amounted to "sacking the Commission". Mr. Elles opposed this statement and said that refusing the discharge was not the same thing as a motion of censure. Mr. Elles thought refusing discharge would mean that in the coming months the Commission would have to modernise according to suggestions made by the Parliament. According to Mr. Elles the issue of discharge for the 1996 budget divided the political groups within themselves. In this case the division tended to follow "national" guidelines. Not political guidelines. Mr. Elles also made the point that the division on this issue had also been reflected in the European Parliament Budgetary Control Committee's

¹³³ Former President of the European Parliament.

¹³⁴ Rosemary Wemheuer (German PES) also expressed her dismay with the PES Party line, when she resigned as Party Whip.

vote in favour of discharge. Only one vote had swung the decision in favour of discharge.¹³⁵

Pieter Dankert (Socialist, Netherlands) noted that the Commission had responded to three of Parliament's demands, and that "Commissioner Liikanen has conducted himself particularly well". "We cannot expect the Commission to solve the problems of staff and access to information in a matter of months". He wanted the discharge to be postponed, but not rejected. He believed that only a vote of "censure makes a sanction possible". Technicalities should not dictate politics, which would be badly received in the public.

Gianfranco Dell'Alba (Italian, Radical) was also worried about what the public would think. Refusing discharge would send out a negative signal to the Commission, and the Member States and the public, just days before the introduction of the single currency". The vote itself over discharging the 1996 budget would be sufficiently critical, Dell'Alba said.

Commissioner Erkki Liikanen gave reasons why the Parliament ought to vote in favour of discharge. He argued that the Commission had taken note of the Parliaments critique and especially that of Mr. Elles. Mr. Liikanen made it clear that he stood behind the draft by the Commission President to the European Parliament on 2 December 1998 concerning the fraud prevention office. The draft was also confirmed by the Vienna summit. The Commission had also worked hard on improving the ties between Commissioners, cabinets and their services.

The Commission was preparing a code of conduct and was about to create a charter of ethics for officials.

Dietmut Theato spoke on behalf of the EPP. She expressed that certain demands would have to be met. "We should have had circumstantial information on ECHO and UCLAF" without the guarantee that the Commission will address the national justice systems in suspected cases of fraud. Therefore it is a matter of credibility "We cannot have full confidence in the Commission when funds are not being well used".

¹³⁵ Bulletin Quotidien Europe no 7366 Thursday 17 December 1998 p.10.

Jean-Lois Bourlange `s (EPP) point was that discharge had to be refused because accepting the budget would put an end to the investigations. They still did not have all the facts, so the investigations would have to continue. The Parliament did not have to refuse to grant discharge forever, but more information was needed, Jean-Lois Bourlanges explained.

The Liberal Group `s opinions was not clear either. The Liberal Group was split down the middle, and Pat Cox had avoided instructing the others on what to vote.

Personally the President of the Liberal Group, Pat Cox; was in favour of granting discharge. A refusal would be politically serious and in “this period of the most intense negotiations for ten years over Agenda 2000, I would not like the Commission to be weakened”.¹³⁶

The result of the debates was that on 17 December 1998, the Parliament refused to grant the Commission discharge for the 1996 budget. The fact that the parliament voted no, seriously triggered the debate whether individual Commissioners should have to resign.¹³⁷

2.4. Process number 3:B: Motion of censures.

Immediately after the rejection of the 1996 budget, the Socialist Group of the European Union launched a motion of censure.

However, they intended to vote against their own proposal, to restore confidence in the Commission. A spokesman of the Socialist group stated that the situation had been improved. The Commission had promised to set up an independent investigation office and draw up a code of conduct on relations between Commissioners and the directorates-general.¹³⁸

Mr. Santer responded to questions about what the Commission would do if the motion of censure gained a large number of votes. “ As President of the Commission, I have to stick to the institutional functioning of the treaties”. He continued: “I possibly regret

¹³⁶ Bulletin Quotidien Europe No 7366 Thursday 17 December p.10-11

¹³⁷ Bulletin Quotidien Europe No 7370 Wednesday 23 December 1998 p.10.

¹³⁸ European Voice: “MEPs set to back away from threat to sack Commission” by Gareth Harding. Volume 5 Number 1 January 7 1999.

that the Commission cannot itself ask for a vote of confidence”. He added: “We are intent on fully respecting the provisions of the Treaty. If the motion of censure is rejected, the Commission will continue, of course: there are no institutional provisions that oblige us to step down.”¹³⁹

Mr. Santer reminded the press that he had decided “for a long time now to pave the way for the Commission of tomorrow”. “I can guarantee that I shall leave a tidy house for the future president”. He admitted to “we have had management difficulties “. “But to put into question the whole and indiscriminate action of the Commission is frankly intolerable”.¹⁴⁰

The Liberal Group and the European People `s Party Group did not find the Socialist `s motion for censure, appropriate. James Elles (British Conservative and member of the EPP Group) declared that the Socialist motion “only aims to prevent an open debate with the Commission”, and, in fact, “its only purpose seems to be to protect some Commissioners who are responsible for policy areas where fraud and irregularities have been discovered”.

Pat Cox from the Liberal Group expressed that whereas his Group “may be unwilling to press the button on a nuclear device which could involve the dismissal of the entire Commission”, it was prepared to “single out individual Commissioners for criticisms”. The Liberals saw the Socialist Group `s suggestion as hasty, as it did not leave any time for reflection on political strategy.

Both of these groups saw another option. Individual Commissioners could be held responsible, and not necessarily the Commission as a whole.

Mr. Boge (German Christian –Democrat. CDU-CSU component of the EPP) expressed this when he said that even if there were no personal culpability, the Commissioners had to assume their political responsibility and stop hiding behind collegiality. “When there are two bad apples in a basket, you don `t throw the whole basket away, but nor do you leave them there”. Should the Commission not respect the will thus expressed

¹³⁹ Bulletin Quotidien Europe No 7377 Thursday 7 January 1999 p.4

¹⁴⁰ Bulletin Quotidien Europe No7377 Thursday 7 January 1999 p.6.

by Parliament, the latter should draw the consequences with a vote of censure in April, said Mr. Boge.¹⁴¹

At a press conference on 7 January 1999, Pauline Green (British Labour MEP) defended the Socialist Group's motion of censure. The Socialist Group would not hesitate in censuring the Commission, but there was no proof. She argued that her political group had always been very active in the fight against fraud. Irregularities had been found in many cases, in agricultural policy and also in the Tacis and Phare programmes. This time only Socialist Commissioners had been targeted. Pauline Green wondered why. Why were the other Commissioners spared? She claimed that there were people in Parliament who tried to take scalps of certain persons. She said she did not believe in this approach, as, if the Commission was considered guilty, she had to go as a whole.¹⁴²

As Chancellor Gerhard Schröder were to be President of the European Council and German ministers were to chair the different EU Councils in the first half of 1999, President Santer had a meeting with him. Following the meeting, there was a press conference where Chancellor Schröder gave certain signals. Mr. Schröder said it was in the German Presidency's interest to have a "stable Commission, capable of acting". President Santer had made it clear that all the accusations levelled at the Commission would be clarified. "I'm very pleased at this", said Chancellor Schröder. To this end, Mr. Schröder had suggested a group made up of representatives from the Council, Commission and Parliament, should be formed. This group "should guide" this work of "control" over possible irregularities, "calmly". Chancellor Schröder thought this group would show that "in Europe, there is nothing to hide". Chancellor Schröder was asked whether the Commission's stability would be assured even if two Commissioners were to leave. Mr. Schröder clearly stated that he saw the Commission as a single "entity". He was also confronted with the question: Is it true that you have advised European Social –Democrat MEPs not to vote on the

¹⁴¹ Bulletin Quotidien Europe No 7378 8 January 1999 p.3

¹⁴² Bulletin Quotidien Europe No 7378 8 January 1999 p.4

motion of censure? Chancellor Schroeder replied that he had too much respect for Parliament to give advice to Members of the European Parliament, “at least in public”. He added that what counted now was to look at the future and prevent the “engine of the Union from racing out of control.”¹⁴³

The Europe of Nations group in the European Parliament did not consider the Socialist Group’s motion of censure as real. They decided to launch their own motion of censure and Mr. Fabre-Aubrespy called it a “true motion of censure”.

The reason for this motion of censure was according to Fabre-Aubrespy, management practices not approved by the Court of Auditors and numerous cases of suspected fraud. He criticised the Commission for never having responded to Parliament’s requests. The formal explanation for the motion of censure states that Parliament refused to give the Commission discharge for implementation of the 1996 budget and that, for three years, the Court of Auditors has refused the declaration of assurance on management of the budget. The Commission was accused of failing to take follow-up action on Parliament’s requests and refusing to forward to it certain fundamental documents.¹⁴⁴

Both motions of censure were debated in the Parliament.

Pat Cox spoke on behalf of the Liberal Group. Cox stressed the fact the Commission is not simply a group of officials, but a political body whose collegial nature is founded on the concept of collective responsibility. “In a national government, the resignation of a minister at fault is seen not as a weakness of the system, but as a strength. Why should it be any different for the Commission?” With this background information, he urged the two Commissioners to “consider their position” and accept their responsibilities.¹⁴⁵

The British Conservative James Elles in the European People’s Party group wrote a resolution in which he stated that the Commission should adopt several points. The Commission should for example establish an anti-fraud bureau in accordance with the recommendations of the Bösch report. The Commission should also present a draft

¹⁴³ Bulletin Quotidien Europe No 7380 Monday/Tuesday 11&12 January 1999 p.7-8.

¹⁴⁴ Bulletin Quotidien Europe No 7381 Wednesday 13 January 1999.

¹⁴⁵ Bulletin Quotidien Europe No 7381 Wednesday 13 January 1999 p.4.

code of conduct for appointment of high-level civil servants. This should increase transparency and responsibility, define minimum qualifications and establish explicit rules of incompatibility and safeguard against pressure from national administrators.¹⁴⁶

Wilfried Martens, also a member of European People`s Party, came up with different arguments. From his viewpoint the Socialist Group were trying to conceal the responsibility of certain Commissioners. He realised that the Commission had to face a heritage of poor management, but voting for censure would not necessarily be the way out of the crisis. President Santer and his Commission had to work hard to re-earn Parliament`s confidence, particularly through the fight against fraud. In the process of re-earning Parliament`s confidence, Mr. Martens asked President Santer to present a detailed plan on how and when to reform the Commission`s procedures.¹⁴⁷

The Green Group asked for the same measures as EPP had lined up. They made it clear that they would vote for the motion of censure. They called for a “viable” solution to be made regarding Mr. Marin. They also stressed the importance of getting the necessary information from the Commission.¹⁴⁸

Jean-Claude Pasty, Chair of the Union for Europe Group, stated that the Socialist motion of censure was a farce. It was staged to take away the attention of the vote on the discharge in December and the political significance of this act. Mr. Pasty argued that even though mismanagement was already in existence, it did not justify the Commission`s actions. Mismanagement of the past could not be the reason why the Commission refused to take the initiative of playing the game of transparency. He added: “If investigations demonstrate that Commissioners failed to fulfil their duties, the Commission must ask them to step down if it does not want to see Article 160 invoked”. “If officials, regardless of their grade, are at fault, the required disciplinary sanctions must be taken.” “We are asking the Commission for a radical change,” concluded Mr. Pasty.

Mrs. Pauline Green explained again her group`s strategy: the motion of censure was tabled to enable Parliament to reject it and thus to express its confidence in the

¹⁴⁶ Bulletin Quotidien Europe No 7382 Thursday 14 January 1999.

¹⁴⁷ Bulletin Quotidien Europe No 7381 Wednesday 13 January 1999 p.4.

¹⁴⁸ Bulletin Quotidien Europe No 7382 Thursday 14 January 1999 p.15

Commission. The point was to end the crisis. The crisis would end when Parliament considered the Commission capable of doing its job. Even though she respected those who sincerely believed that the Commission no longer deserved Parliament's confidence, she criticised the electioneering motivations of certain Members of Parliament. A negotiating framework between Parliament and the Commission for a reform of the Commission's management procedures, was needed. Unproven charges against individual Commissioners, was not.¹⁴⁹

President Santer asked the Members of Parliament to evaluate the Commission and its work as a whole, and said: "What we are debating is the question of confidence between the our two institutions. This confidence has come under pressure lately. I am ready to bear my share of responsibility for this. The time is manifestly ripe for clarification. I say this because I have the deepest respect for the European Parliament's institutional role. Over the past four years, I have come to realise just how important the relationship of trust between our two institutions is for the European Union. Our recent success would not have been possible without close cooperation between the European Parliament and the Commission. I am convinced that the Members of the House will judge the Commission on its activities as a whole, on its action as a body. I shall endeavour to show that this house would be right to express its confidence, and its confidence is essential if the Union's ambitious programme for the months ahead is to be carried through."

He continued: "In January 1995, I referred to one area where a special effort was needed: internal management (...) We have undertaken more by way of reform in the last four years than in the forty years that went before (...) The improvements in UCLAF's work have also brought to light a number of cases involving Commission Officials. Each of these cases hurts me. Each time it is Europe that loses out. We have been criticised for the way we handled the affairs. I can assure you that there was no ill intention on our part. We were not out to hide anything. I have been in public life for thirty years. I have always regarded it as a privilege and something that demands absolute integrity. I treat the taxpayer's money with utmost respect. Anyone found

¹⁴⁹ Bulletin Quotidien Europe No 7381 Wednesday 13 January 1999 p.3.

guilty of fraud must be punished. We need Parliament `s help. With it, my determination will be much greater.”¹⁵⁰

The Socialist Group `s motion of censure was withdrawn just before the vote on 14 January 1999. The resolution set forward by the Socialistic Group, the United Left and the Radical Alliance were they demanded an investigation by an independent group of experts, had gained sufficient support. Pauline Green considered the resolution a major success, which would not have been possible without their motion of censure. Hence, the motion of censure was no longer required.¹⁵¹

President Santer commented on this resolution demanding an independent group of experts to investigate the allegations of fraud: “ The European Parliament has just expressed itself in a resolution that sends a clear and firm message to the Commission. It will, presently, state its position, in full sovereignty, on the issue of confidence. This is an important moment in the life of our institutions. I should first like to say a word about the resolution. As I have said, the message to the Commission is clear and I am receiving it loud and clear. I take to heart the criticism expressed. I undertake today to bring to a successful conclusion the ambitious programme I have proposed, in accordance with a tight timetable, and to take action on the demands of this Parliament. I see this experience a means of giving the necessary reforms a very strong impetus. The European Parliament has forcefully reiterated today its authority and its role of control. As democrats we must welcome this. I should also like to say something about the idea of the Committee of Wise. I accept it because it will enable us to have a close look at our methods, to improve our management, to take a critical look at the effort to combat fraud. It is obvious that this Committee may also examine certain individual cases. I say so clearly: the recommendations of the Committee of Wise will be put into practice. Moreover, it goes without saying that the Commission will continue to report to the European Parliament `s control bodies. I can assure you that every case of fraud hurts me. Europe is the real loser in every case. Certain

¹⁵⁰ Bulletin Quotidien Europe No 7382 Thursday 14 January 1999 p.3-4

¹⁵¹ Bulletin Quotidien Europe No 7383 Friday 15 January 1999 p.3

blunders have been committed. I recognise this. We have been criticised. But our good will has never been called into questions”.¹⁵²

A draft resolution tabled by the European People`s Party, Liberals and Greens, demanding the resignation of Edith Cresson and Manuel Marin, was rejected. In Cresson`s case 165 voted in favour, 357 voted against and 13 abstained. In Marin`s case 155 voted in favour, 364 voted against and 23 abstained.

The Europe of Nations Group motion of censure was also rejected by 232 in favour, 293 against and 27 abstained.¹⁵³

2.5. Process number: 3:C: The Committee of Independent Experts.

Several MEPs expressed reservation about the creation of a Committee of Experts, and some insisted on the need to clarify the relationship between their own responsibilities and those of the independent committee of experts. Magda Aelvoet, Chair of the Greens Group, was perplex regarding the role of the “Wise”(Committee of Experts). She stated this to the EP`s Committee on Institutional Affairs. She argued that the resolution made by the Socialist, the United Left and Radical Alliance gave the committee of experts a function of control. This means institutional problems, she argued. She asked her fellow MEPs whether they were committing themselves to “new institutional waters”, by forming this committee.

Fernand Herman, Belgian Christian-Democrat, disagreed. Given the fact that the committee of experts were limited in time and they should have their report ready March 15, it would not be a problem.

Antoinette Spaak, Belgian member of the Liberal Group, said that she had “too high an opinion of the European Commission” to be in favour of the establishment of a group of experts. When speaking with the Commissioners themselves they seemed “incredible divided over this subject”. Some would think it will be “work done fast, superficially, and therefore not really necessary”. Others would argue that the

¹⁵² Bulletin Quotidien Europe No 7383 Friday 15 January 1999 p.5

¹⁵³ Bulletin Quotidien Europe No 7383 Friday 15 January 1999 p.3-4

committee should write “a document that goes to the very end”. This would compromise the Commission’s dignity, Spaak argued.

From the British Conservative’s perspective all the members of the Committee of the Wise should be appointed by the European Parliament, and not just half of them. The people in the committee needed to be free of all influence from the Commission, James Provan stated. The candidates ought to be picked from the EU Court of Justice or similar institutions. This would ensure that the members of the committee had the legal capacity, but also an investigative background. It would come in handy if they were to expose what Provan saw as a culture of “cover-up” in the Commission. EU taxpayers did not trust a Socialist pact with Jacques Santer, the British Conservatives expressed.

Dietmut Theato, EPP and Chair of the Committee on Budgetary Control, opposed to set up this group of experts, because it “devalues” the parliamentary committee on budgetary control. “I vote against this resolution but, as a Democrat, I am now waiting to see what the work of this group will be”. She thought judges and eminent lawyers would be best suited for the committee.¹⁵⁴

In the debate concerning the composition of the committee, Pauline Green made certain statements to the press. If the inquiries revealed cases of “abuse of personal powers by anyone”, these people would be “dismissed”. The Committee should be made up of people not only with experience in legal matters or financial control, but also in the “ethics of public life”. The experts should not be involved in the work of the Commission or European Parliament and it should not be a question of a “political party nomination”.

Suggestions were made about handling this affair over to an EP committee of Enquiry. Mrs. Green replied that the Committee of Experts would be more independent, because “in the run up to the European elections”, a parliamentary committee risked falling into “party politics”.¹⁵⁵

¹⁵⁴ Bulletin Quotidien Europe No 7388 Friday 22 January 1999 p.15.

¹⁵⁵ Bulletin Quotidien Europe No 7392 Thursday 28 January 1999 p.9

On the European Parliament Conference of Presidents (The President of the EP Gil-Robles and the Presidents of each political group) they decided that there should be 5 members in the committee. These experts should be chosen on the basis of their: - political, professional and institutional independence; their knowledge of European institutions and financial regulations; - legal and / or economic expertise and / or auditing expertise. Their report should contain how the Commission detects and treats cases of fraud, mismanagement and nepotism, and also include a review of how the Commission awards financial contracts. From this one should be able to derive to what extent the Commission as a whole or individual Commissioners can be considered responsible for fraud or irregular management.¹⁵⁶

After the meeting on 27 January 1999, President José Maria Gil-Robles announced the composition of the Committee of Independent Experts. The Conference of Presidents chose: - Inga-Britt Ahlenius (Sweden), Auditor General at the Court of Auditors since 1993. She had also served as Head of the Budget Department of Sweden 's Finance Ministry from 1987 to 1993 and President of the European organisation of audit institutions from 1993 to 1996.

- Juan Antonio Carrillo Salcedo, member of the European Commission of Human Rights from 1979 to 1985 and of the European Court of Human Rights from 1985 to 1990 and at the time Professor of International Law at Seville University.
- Pierre Lelong (France), member and then President of the European Court of Auditors from 1977 to 1989 and President of the French Court of Auditors since 1994.
- André Middelhock (Netherlands) President of the European Court of Auditors from 1977 to 1996, Director General for the budget at the Netherlands 'Finance Ministry from 1969 to 1977.
- Walter Van Gerven (Belgium) Advocate General at the EU Court of Justice from 1988 to 1994, at the time practicing attorney and professor at the University of Louvain.

¹⁵⁶ Bulletin Quotidien Europe No 7391 Wednesday 27 January 1999 p.7

President Gil-Robles explained that the experts themselves would be in control of organisation and divide the work. They could gather information in Brussels and work elsewhere if they wanted. The experts were to present their report on 15 March 1999 to the President of Parliament and the President of the Commission. Mr. Gil-Robles stressed that both the European Parliament and the Commission had to guarantee unrestricted access to any document the committee requested, including those examined by UCLAF.

Officials and other agents of the Commission consulted by the Committee of Independent Experts or who wished to reveal information would not be bound by the conditions of confidentiality, Mr. Gil-Robles informed. He also informed that the experts would be paid by the European Parliament, but there would be held negotiations with the Commission on possible cost sharing.

Mr. Gil-Robles stated that President Santer had made no objections to the list of experts. President Santer had also made it clear that it was up to the experts to derive at a conclusion. They would have to choose the path to a conclusion themselves.

President Santer was asked whether the Commissioners called into question by the experts' conclusion would resign. He said that he was "convinced" that individuals whose behaviour had been questioned by a "committee of this type" "would be well advised to come to their own conclusions". If they did not, the Parliament would have to decide how to proceed.¹⁵⁷

At a press conference, Hervé Fabre-Aubrespy from the Europe of Nations Group said that he was the only one to vote against Mr. Gil-Robles' proposal. The Conference of Presidents had not examined the entire list of candidates, he objected. He had made suggestions, but the candidate that he wanted had been rejected. According to Hervé Fabre-Aubrespy the process of selection of experts "shocking". He commented on the candidates who were selected and remarked that: several members of the committee have "a marked commitment and political career" and are therefore not independent enough. He stressed that three members were former members of Community

¹⁵⁷ Bulletin Quotidien Europe No 7393 Friday 29 January 1999 p.5-6.

institutions (the Court of Justice and Court of Auditors), which “detracts from their freedom of thought and judgement”. “Sufficient experience in auditing and procedures for awarding of financial contracts”, seemed to be lacking from the experts competence. Their mandate was also inconsistent of the resolution adopted on 14 January by the European Parliament. In Mr. Fabre-Aubrespy `s opinion the mandate and the composition of the committee “confirm that the European Parliament does not really want to give itself the means to shed sufficient light on issues related to the Commission `s financial management”. Mr. Fabre-Aubrespy concluded: “We are worried about the process bogging down”.

The Green Group and the British Conservatives criticised the decisions made by the Conference of Presidents. The Greens expressed doubts about the need for the Committee. Still, they made suggestions about who to pick as members. Their suggestions had been rejected.¹⁵⁸

However, Mrs. Aelvoet expressed satisfaction with the ones who were picked. She was glad that one of the experts was a woman. The most important objection was concerning the committee `s mandate. Mrs. Aelvoet feared that the mandate could keep the experts from working on cases where legal proceedings were on the way. “This would mean that the Committee could not touch 11 out of 27 known cases of fraud and irregularities. It is a classic tactic by bodies under scrutiny to conceal the whole truth”, Mrs. Aelvoet said. The Greens would try to “clarify if there is really legal ground for excluding some of the cases of fraud and irregularities from investigation by the Committee”.¹⁵⁹

Edward McMillan-Scott accused Pauline Green of cooperating with the Commission to create a powerless committee in order to evade the motion of censure.¹⁶⁰

As the Committee of Experts started to work, the critics from the Green Group grew stronger. The Green Group argued that based on analysis made by Joe Verhoeren (Professor of Community of Law at the Catholic University of Louvain) that the constitution of the Committee of Independent Experts had no legal basis. In Law, it

¹⁵⁸ Bulletin Quotidien Europe No 7393 Friday 29 January 1999 p.5-6.

¹⁵⁹ Bulletin Quotidien Europe No 7394 Saturday 30 January 1999 p.13.

¹⁶⁰ Bulletin Quotidien Europe No 7393 Friday 29 January 1999 p.5-6.

had no powers to proceed with verifications or to summon witnesses. Thus it was totally dependent on the good will of the European Commission. Even though the Green Group would not have asked for the dissolution of the committee because of its support from the majority of the Parliament, they would have preferred a solution within the framework of an inter-institutional agreement. A temporary committee with powers defined by the treaty, would have been more in line with the Green Group `s wishes. Magda Aelvoet said that it was necessary to clarify the Committee `s powers.¹⁶¹ Later she compared the committee to “a little fragile boat launched into a tempest”. She commented on the members of the committee `s remunerations, and said she understood those who found the amounts astronomic. The experts were supposedly to receive 9650 Euros a month and 300 Euros per head per day. Hevré Fabre-Aubrespy referred to remuneration of 29200 Euros, and asked President Gil-Robles whether the sum was correct or not.¹⁶²

While everyone was waiting for the report to be ready, Members of Parliament made certain statements. Gunther Rinsch and Ingo Friedrich from the CDU/CSU delegation within the EPP stressed the individual responsibility of the Commissioners.

Independent of the results of the report, both Edith Cresson and Manuel Marin should have to resign. If other Commissioners had made serious mistakes, they should resign as well, Rinsche and Friedrich demanded.

Pat Cox (Liberals) said that the report should cause the Commissioners to reflect and act accordingly. Should Commissioners pointed out by the report choose not to act, The Commission should make them understand that they had to. If not, it would be up to the Parliament to act for them.¹⁶³

President Santer was also eager to receive the report: “On behalf of the College, I backed and welcomed the constitution of the Committee of Independent Experts. It `s brief is clear: examine how the Commission deals with cases of mismanagement, fraud and nepotism. The report will be made public Monday evening. The committee has worked professionally and objectively. The Commission will follow-up its

¹⁶¹ Bulletin Quotidien Europe No Saturday 6 February 1999 p.11

¹⁶² Bulletin Quotidien Europe No 7401 Wednesday 10 February p.15

¹⁶³ Bulletin Quotidien Europe No 7422 Thursday 11 March 1999 p.14

recommendations, whether they concern the general running of the Commission or the conduct of individual members of the College. I undertake this personally. I refuse to speculate on the outcome of the work of the Committee. I have convened an extraordinary meeting of the College for Monday evening to consult my colleagues before taking any decision”.¹⁶⁴

The report was set forward at 17:00 pm on 15 March 1999. The very same night President Santer made a statement on behalf of the College: “In the light of the report of the Committee of Independent Experts, the Members of the Commission decided this evening unanimously to present collectively their resignation. The Commission thus assumes its responsibilities, in accordance with its commitment to act on the report by the Committee of Independent Experts. Tomorrow (i.e. Tuesday) I shall inform The European Parliament Conference of Presidents and make a statement on behalf of the Commission at the conclusion of this conference meeting”.

The following morning, Jaques Santer explained: “I promised that we would act on the report by the Committee of Independent Experts. Yesterday the Commission assumed its responsibilities. I would like to say a few things on its behalf.

1. The report considers a small number of specific cases which have recently attracted criticism from the European parliament. The cases are analysed in great detail and, while the findings reveal certain malfunctions and one instance of favouritism, I would point out that there is no suggestion that any Member of the Commission was involved in fraud or corruption or stood to gain personally.
2. I note that on the basis of a tiny number of cases of fraud and malfunctioning, which did indeed merit criticism, the Committee `s report paints a picture of total absence of responsibility on the part of the institutions and its officials. This picture is distorted. I consider the tone of the report `s conclusions to be wholly unjustified.
3. I do not accept that four weeks of work, during which this Commission has achieved its full policy program, can be reduce to six cases of irregularities, four of which date back to before 1995. I would also have hoped that the

¹⁶⁴ Bulletin Quotidien Europe No 7424 Saturday 13 March 1999 p.6.

Committee of Independent Experts might have attached appropriate significance to the very substantial reforms carried out by this Commission since 1995 and the ambitious programme announced to parliament last January.

4. The Commission `s decision yesterday was a political act. We have taken our responsibilities, even if we judge the report to be imbalanced. Sometime criticism can be salutary; we must use this crisis as a catalyst for a deep and lasting reform in all the European institutions. I have informed the President of the European Council of the decision taken yesterday. I pointed out to him that, in line with the Treaties, we will continue to perform our functions until our replacement is provided for under the relevant procedures.”

After giving the official statements, Mr. Santer made some personal remarks. He was satisfied with the fact that the report “exonerated me entirely”. This gave him “the necessary credibility and dignity”. He was asked about criticism relating to the Commission `s security office. Mr. Santer said he was not responsible for events dating back to 1993. Adding: “Ask my predecessor as well!” When confronted with statements about the Commission resigning to late, Mr. Santer stated: “One is always more intelligent with hindsight”. He had acted “in political determined circumstances” and the resignation was the result. “Political honesty and honourability require me to draw the consequences, even if I cannot say that I agree, especially with the report `s horizontal conclusions”.

Mr. Santer addressed the press directly and said that the Commission had in some cases, been the victim of “harassment, notably by some of you”, whereas the report completely exonerated, among others Vice-President Marin and Emma Bonino. As a result the Commission had to “seek clarification in an unhealthy climate”. He was asked how he thought the Member States would react, and he answered: “I am certain; knowing my European Council colleagues, that they will concur with my assessments” of the report `s general conclusion. However, Mr. Santer mentioned one area where he and the Council did not see eye to eye. Mr. Santer was referring

to the budget and said there was “inappropriate means and human resources in relation to the responsibilities” entrusted to the Commission by the Council. Still, the EU humanitarian aid was the worlds highest.

Some national governments made statements about the Commission `s resignation. The Government of United Kingdom declared its total confidence in the two British Commissioners Sir Leon Brittain and Neil Kinnock. The UK government confirmed that they would reappoint both their former Commissioners again. Mr. E. Letta expressed on behalf of the Italian government, both esteem and solidarity for Mrs. Bonino and Mr. Monti.

The Danish Government took a different view and argued that the Commissions resignation was an act of logic and that it was inevitable.¹⁶⁵

President Gil-Robles greeted the report and said that he and all the group chairs welcomed the “quality, discipline, balance and levelheadedness of the report”. He thanked the Commission for having resigned rapidly, hence avoided censure.

Dietmut Theato `s first remarks was that it was important that the changes were genuine, “introducing a culture of transparency and responsibility for the next Commission”. She was pleased that the Commission “has taken the report `s conclusions very seriously and assumed its responsibility”. Still, she “strongly regretted the time lost” which could have been spent on getting the reforms through.¹⁶⁶ Bulletin Q. Europe No 7426 Wednesday 17 March 1999 p.14.

Magda Aelvoet remark to the resignation of the Commission was striking:“ The balance of power has changed between Parliament and the Commission but the test of strength with the Council has not taken place yet”.

¹⁶⁵ Bulletin Quotidien Europe No 7426 Wednesday 17 March 1999 p.3-4.

¹⁶⁶ Bulletin Quotidien Europe No 7426 Wednesday 17 March 1999 p.14

Chapter 3.

3.1. Neo Institutionalism.

3.1.1. Organising structures.

Looking at Processes number 1, 2 and 3 A, B, C together through a Neo Institutional lens some factors is more visible than others. These factors are for example the institution `s role and the relationship between the EP and the Commission, the rules and routines of the institution, the identity and loyalty of those acting and the organising structures of the institution and its effect on the process leading to the Commissions resignation. (See 1.4. Expected findings looking through a Liberal Intergovernmental or Neo Institutional lens in Chapter 1).

A Neo Institutional outlook has for example an effect on how we perceive the Commission; by how it is organised, by which function it has and by its relationship towards other institutional units such as the EP and the Council of Ministers. What also emerges in this process is the distinction between the narrow and the broader meaning of the Commission. The narrow meaning refers to the 20 Commissioners headed by a President, a College that has a co-ordinating function.

The Commissioners are appointed from the nation states, but without any obligations to be a spokesperson for their nations` interests. They each have their portfolios that are manifestations of specific sectors.

In the College these tasks are co-ordinated and even though each Commissioner is responsible for their portfolios, they could only be censured as a group, meaning as a College and not be removed by the EP as individuals. Thus, the President of the Commission neither chose the College, nor could he remove individual Commissioners¹⁶⁷. The Commission could in this process therefore be seen as “the political cap on a bureaucratic body”.¹⁶⁸

This last statement leads us to our perception of the Commission in a broader meaning when looking through the Neo Institutional lens. As mentioned each Commissioner is

¹⁶⁷ Spence 2000

¹⁶⁸ Cini 1996:101

responsible for a portfolio that represents a sector. A certain apparatus is at the Commissions disposal, such as his or her cabinet and Directorate General (DG). Each DG can have several directorates headed by directors; and each directorate is divided into three or four divisions, in turn capped by a chef de service or a head of unit¹⁶⁹. The DGs are sector oriented, but institutional units that have an all-across-the board job do exist such as the Secretariat General. This is a horizontal organised service that sort of link the sector oriented DGs together. It is under the direct supervision of the Commission President, and is therefore an important co-ordinating tool for him. They help form a common Commission voice, but also routine work such as organising the meetings of the College of Commissioners, prepare documentation and publish agreed decisions and recommendations.¹⁷⁰ Through the Neo Institutional lens organisational factors such as sector organisation and co-ordination elements become apparent.

What also becomes apparent is the Commissions function as a supranational body that has the welfare of the EU as a whole at heart.

This affects the Commissions relationship with the other institutional units such as the European Parliament. Some claim that since both the Commission and the European Parliament have supranational features they tend to work together. In fact the relationship between the Commission and the European Parliament is described as “natural allies” in the legislative process because of their common bond of supranationality, as compared to the more intergovernmental nature of the Council.¹⁷¹ The Commission has for instance championed the cause of direct elections and has always represented Parliament `s point of view in Inter-Governmental Conferences (IGC), from which the Parliament continues to be excluded.¹⁷² Even though the Commission produces policy proposals, they still have to take into account that the proposal needs a majority in the Council of Ministers.¹⁷³

¹⁶⁹ Cini 1996:105

¹⁷⁰ Cini 1996:102

¹⁷¹ Hayes-Renshaw & Wallace 1997:193

¹⁷² Westlake 1994:42

¹⁷³ Hayes-Renshaw & Wallace 1997:194

The Council of Ministers comes across as a unit with intergovernmental features because of the fact that it consists of representatives of the member governments articulating national interests.¹⁷⁴ The relationship between the EP and the Council is often described as the weakest side in the triangle and the reason for this is EP `s alleged weak position with only advisory and supervisory powers under the Treaties of Rome¹⁷⁵. The co-operation and assent procedures were added in the Single European Act of 1986. The Treaty on European Union (TEU) introduced the co-decision procedure, increasing the use of qualified majority voting.¹⁷⁶

As a result the EP `s position towards the Council was strengthened.

Conflicts were not necessarily decided in favour of the Council and a tradition of Inter-Institutional Agreements was established.¹⁷⁷ The EP could seek an alliance with parts of the Council of Ministers. They try to find ministers who agree with their EP Party Group. Thus, weaken the intergovernmental image of the Council of Ministers by the help of the co-decision procedure. If an EP Party Group were successful in finding an alliance partner in the Council of Ministers, this would enhance the development of socio-political cleavages instead of national cleavages.¹⁷⁸ The different EP Party Groups can also form alliances with individual Commissioners, who might have some party loyalty. Perhaps there is a growing tendency for individual Commissioners to see themselves as members of the political families. This is manifested in how some Commissioners prefer to deal with the EP through its Party Groups.

Plenary weeks in Strasbourg provide the Commissioners with the opportunity to meet with the Group Leaders of the same political persuasion. The MEPs sometimes refers to their Party colleagues as “their Commissioners”.¹⁷⁹

The different EP committees also have seats meant for Commissioners and Ministers of the Council of Ministers.¹⁸⁰

¹⁷⁴ Hayes-Renshaw & Wallace 1997:211

¹⁷⁵ Hayes-Renshaw & Wallace 1997:194

¹⁷⁶ Edwards & Spence 1994:17

¹⁷⁷ Hayes-Renshaw & Wallace 1997:198

¹⁷⁸ Hix & Lord 1997:120

¹⁷⁹ Hix & Lord (1997):60

¹⁸⁰ Hix & Lord 1997:116

3.1.2. Party Politics.

From a Neo Institutional perspective there are factors that can channel the policy processes away from the hands of nation states towards the institution itself, thereby increasing the institutions impact on the decisions made in this process.

Specifically organisational structures based on sector could have that effect, but also structures that promote political parties influence on the policy processes.

In this section of my paper I will deal circumstances in this process that might have party implications, meaning the people involved were acting on their loyalty to a European Party Group. Neo Institutional spectacles allow us to see Political Parties as actors with an effect on the process leading to the Commissions resignation.

First I will explain what I mean with Party Politics.

There are three different levels of party families that are linked together.

First you have the national parties in each Member State (level 1).

Some of these holds the executive office and some are in opposition. National party delegations are brought together in the European Parliament and form the second level: the EP Party Groups in the European Parliament. The main political groups are The European Peoples Party (EPP), Party of European Socialists (PES), the European Liberal, Democratic and Reform Party (ELDR) and the Greens (G).

Smaller Political Groups that have not existed across several parliaments are groups like the Union for Political Europe (UPE), the United European Left (UEL), Europe of the Nations (EN) and the European Radical Alliance (ERA) (level 2)

Thirdly are the federal party groups.

The pan – European party federation `s names are to a large extent the same as the party groups; EPP, PES, ELDR and the European Federation of Green Parties (EFGP) (level 3).¹⁸¹ There are also near-federations, such as the Regionalist European Free Alliance (EFA) and the remains of the European Democratic Union (EDU).

¹⁸¹ Hix & Lord 1997:2

The Federal Parties emerged as think tanks were the party manifestos would be drafted before the first EP election in 1979¹⁸². However, I will in this paper deal with the EP Party Groups on the second level and that consists of national delegations manifested as Members of the European Parliament (MEPs).

One way of evaluating EU politics is by using these axes:

- The right-left axis
- The supranational versus intergovernmental integration axis.

One could claim that voting behaviour in the EP elections conforms to the second-order model, which means that the public uses the EP elections to express dissatisfaction with their national government. This means that if they are unhappy with their Socialist or Conservative Government, they could vote for another political party in the EP election. As a result the EP tend to over represent small parties and parties of opposition. Some also end to experiment and vote for new and peripheral parties¹⁸³.

It is possible to differentiate between Party Groups like PES (Party of European Socialists) that have developed on the basis of national parties with a common ideology that existed before the European Union (exogenous), and Party Groups that has been formed to adapt to the EU as an institution and the Rules of the EP (endogenously).¹⁸⁴

From this perspective the PES seems to have been formed much on the basis of national party systems and still have close relationship with national parties.

The EPP (the European Peoples Party) on the other hand is a product of the EU where both Christian Democrats and the Conservatives have decided to work together in one Party Group to have an influence on the policy processes in the EU. This is in one way an unnatural alliance because the Christian Democrats are normally enthusiastic about European Integration and the Conservatives on the other hand value national identity and domestic self-governance. Therefore, the institution EU and the Rules of the EP might have influenced the founding of the EPP and hence EU Party System.

¹⁸² Hix & Lord 1997:169

¹⁸³ Hix & Lord 1997:93

¹⁸⁴ Hix & Lord 1997:94-95

The specific EP rules that makes among others the Conservatives and the Christian Democrats work together in one Party Group is the minimum demand of representative to form a Group and the Majority Rules.

Through the Single European Act, the Maastricht Treaty and the Amsterdam Treaty the powers of the EP have been extended. An Absolute Majority Rule was introduced which meant that most powers could only be exercised on an Absolute Majority of the Parliaments Members and not just of those voting.¹⁸⁵

In practical terms this Absolute Majority Rule meant that the cost of being excluded from the large Party Groups increased. This created an incentive for the Party Groups to expand to maintain their influence in the voting process.¹⁸⁶

As a result the EPP needed to expand and take onboard members from different Ideological families from different nations.

I believe that this meant a bigger EPP but also a stronger EPP. The EPP got strong enough to resist being dominated by one national party delegation from one Member State.

Another Rule also seems to create an incentive to form EP Party Groups. The Parliament has minimum criteria for Group formation that require up to 29 MEPs if all MEPs come from just one member state, 23 if they come from two states, 17 if they come from three and 14 if they come from four states to form a Group. This is necessary if they want to receive certain benefits. The benefits are funding, staffing and an assured place in the procedures of the EP, but also the possibility of being appointed as a rapporteur.¹⁸⁷

In 1997 there were 19 Parliamentary Committees that would usually have a membership of between 50 and 60 MEPs. There were 101 national party delegations, but the national party delegations were fairly small. The average size of a national party delegation was just 6 members. Only 6 of the national party delegations had more than 20 members, or 3 per cent of the Parliament members in total.

So most national party delegations were too few to spread all over the 19 Committees. That means that national delegations could miss out on policy processes that went

¹⁸⁵ Hix & Lord 1997:98-99

¹⁸⁶ Hix & Lord 1997: 98-99

¹⁸⁷ Hix & Lord 1997:105

through EP Committees where they had no representatives. To avoid this situation the national delegations therefore forms alliances manifested as EP Party Groups. This makes it possible for them to have a say in all the 19 EP Committees.¹⁸⁸

In this sense both Christian Democrat `s and Conservative `s amalgamation in the EPP have been conditioned by new institutional Rules and pressures to compete within the EU `s own institutional system¹⁸⁹

These two Rules seem to have excelled the development of Party Groups in the European Parliament. The development of a more fixed Party system in the EP could strengthen the autonomy of the EU as a whole. A trans-national Party System could increase the likelihood of actors having loyalty towards their EP Party Group and act accordingly in spite of which country they come from. The trans-national Party division lines could be more important than national division lines.

The evolving EU Party System could also have an affect on the relationship between the EP, the Council of Ministers and the Commission.

The EP, the Commission and the Council of Ministers are to an extent open to representatives of other institutional units and other political processes. This makes it harder for the different institutional units to remain distinct and coherent, since others influence their institutional unit. Their ability to act coherently will have a large impact on their ability to bargain with other institutional units.

In practical terms this means in the EP `s case that if they are able to create trans-national Party Politics, the EP would be able to lead the policy processes through Party division lines instead of national division lines. This would strengthen the EP `s ability to influence the policy process, and strengthen their bargaining power and resist being dominated by the Commission and the Council of Ministers.

¹⁸⁸ Hix & Lord 1997:110

¹⁸⁹ Hix & Lord 1997:97

3.1.3. The Conference of Presidents.

Apart from the European Political Groups and political division lines a certain institutional unit, the Conference of Presidents, stands out when looking through the Neo Institutional lens.

The Conference of Presidents consists of the Chairs of each Party Group and they have an organising role. The Committees are in session the first two weeks of the month. The third week the MEPs meet in their EP Party Group parallel with the national delegations meetings. The fourth week all the MEPs are in Strasbourg attending the plenary session.¹⁹⁰ The Conference of Presidents links the Committees, the EP Party Group meetings and the plenary sessions together. They set the agenda for the EP plenary sessions and they also allocate opportunities to draft reports to particular Committees. They decide which issues are going to be dealt with by which Committee.¹⁹¹ The reports are then assigned to individual MEPs called rapporteurs. The proportionally stronger ones EP Party Group is, the more likely it is to be picked as a rapporteur. The Party Groups in the Committees actually has a point system for weighting the importance of each report. If they disagree on who is going to be rapporteur, they can hold an auction and make bids. Those who bid the highest, get the rapporteur.¹⁹² The rapporteurs will try to negotiate an oversized majority on the Committee he or she is in. The rapporteur would want to get all of their EP Party Group Members on their side and minimise the number of EP Party Groups opposed. The Conference of Presidents decides which reports are ready to be voted on in the plenary session. They also decide in which order the reports are to be voted over by the plenary.

The Conference of Presidents seems to make the final arrangements of the coalition building between the EP Party Groups. Here the EP Party Groups can get accurate information about how the others will vote and close the deal.

In the plenary sessions in Strasbourg the eight EP Party Group Presidents announces their position. The Committee chairs also have their say and ordinarily members get a

¹⁹⁰ Hix & Lord 1997:121

¹⁹¹ Hix & Lord 1997:131

¹⁹² Hix & Lord 1997:121-122

few minutes. The speaking time in the plenary debate is sparse. Therefore there is an incentive to choose those arguing the party line and often not all of the EP Group members are present.

The EP Party Groups are together and constantly consulted by the EP Party Group's leaders. It is time to make sure that the issues dealt with gain the absolute majority necessary. This seems to be the final test if trans-national policy can be formed and if the EP Party Groups can articulate a coherent political message. They need to be cohesive in both the plenary debate and in the final vote. More importantly, they need to form winning alliances with other EP Party Groups.

The Conference of Presidents function as more than an arena for alliance building between the EP party groups, they are also responsible for matters related to other bodies of the European Union.

Additionally, they are responsible for the composition and competence of committees and temporarily committees of inquiry.¹⁹³

3.1.4. Sector organisation in UCLAF.

Using Neo Institutionalism as a mesh in the pond brings certain institutional units to the surface, but also their behaviour and its effect on process number 1 the UCLAF process and number 2 the ECHO process. UCLAF's organisational structures is brought to light and so is the power struggle between the Commission and the EP to have the new OLAF their own way. What started as a task spread over several DGs, was organised according to purpose in one unit, UCLAF. The fact that UCLAF was sector organised is indicated by a purpose that is the basis of the unit's activity: fight against fraud.

UCLAF had a management director, Mr. Knudsen, who evaluated how many departments were needed to handle the workload and how much specialisation was needed in each division.¹⁹⁴ The people who were hired were not only from one professional group, using the same work method such as a unit organised according to

¹⁹³ Westlake 1994:189-190

¹⁹⁴ Court of Auditor's Special report 8/1998

function or process would be. Different people with different educational background, mostly national experts from the national ministries worked there.

Ironically, this was a unit that was supposed to enhance co-ordination.

Still, UCLAF was organised according to sector, an organising principle that enhances specialisation.¹⁹⁵ Organising UCLAF according to sector did not only enhance specialisation that was supposed to increase UCLAF 's efficiency, but it also made co-ordination more difficult. Increased specialisation could be the cause of difficulties with co-ordinating information from different sources for instance in the databases they should make according to their mandate.¹⁹⁶ It also could have made the co-ordination between UCLAF and the Member States cross-boarder prosecutions harder. UCLAF was attached to the Commission 's Secretariat-General, a unit which is described as an all-across-the board unit focusing on co-ordination. Even though the Secretariat- General perhaps has that characteristic of focusing on co-ordination, it is only a part of the Commission. A Commission that is to a large extent supranational with the institution EU 's best interest at hart. This made it even more difficult for Member States to be involved in the processes that ran through UCLAF, and this made the co-ordination between UCLAF and Member States even harder.

It seems as though the structure of UCLAF with its focus on a specific sector made influence from Member States harder. It was difficult for Member States to take part in the investigative processes before the cases were handed over to the prosecutors in the nation states. This gives me the impression that the fight against fraud was a process dealt with mainly within EU itself with institutional units taking part as actors with their own agenda to maximise their own power in the fight against fraud. (See 1.4. Expected findings looking through a Liberal Intergovernmental or Neo institutionalism lens Chapter 1)

What is the greater picture her from a Neo Institutional perspective?

What was at stake was the institutions ability to clean up its own mess. The issue was which unit (or nation) was best suited for the job. Obviously, all actors involved would

¹⁹⁵ Gulick, Luther 1937

¹⁹⁶ Court of Auditor 's Special Report 8/198

not necessarily agree which institutional unit was suited for the job. It all depended on who was in control of the institution and its characteristics, meaning how it was organised and what mandate it was in possession of. The Commission claimed that UCLAF was best suited for handling the situation, in fact Emma Bonino tried to comfort people, saying that it was UCLAF `s investigation which had revealed missing funds in the ECHO project. (See 2.2.1. In Chapter 2.)

The views held by MEPs were different. They expressed that in order to have confidence in the ongoing investigation, the UCLAF had to be freed from the Commission `s control. Since UCLAF was under the authority of the Secretary-General, a new arrangement would have to be found.¹⁹⁷ (See 2.1.3, 2.1.4. and 2.1.5. in Chapter 2)

UCLAF needed more independence from the Commission it was supposed to investigate, the EP members expressed.

With Neo Institutional glasses on it seems to me that the EP acted in a unified manner, insisting that UCLAF ties to the Commission `s Secretariat General would be loosened, although not cut altogether.

It did not make the situation easier that UCLAF `s investigation was considered to be badly co-ordinated and highly sector organised with a lot of national experts on a temporary basis. This gave the UCLAF the image of being a weak institution with little capacity to inflict consequences on those who would misuse Community funds. The EP members were worried that UCLAF would be too weak to stand up to anyone misusing Community funds. They wanted to strengthen UCLAF and also make it more independent of the Commission.

My impression from a Neo Institutional perspective is that the Member States had a weak influence on the processes that ran through UCLAF. However, the UCLAF got an image as a weak institution with difficulties fulfilling its mandate. The EP members were certainly convinced that UCLAF had to be strengthened to avoid a situation where UCLAF was dominated by the Secretariat General and thereby the Commission itself.

¹⁹⁷ Bulletin Quotidien Europe No 7318 9 October 1998 p.15

Often the Commission and the EP is seen as a team. They work together to get things through and they both have supranational features.¹⁹⁸ In the matter concerning UCLAF this seems to have changed. The Commission and EP are adversaries, and when Bösch an EP representative confronts the Commission, Mr. Santer said that they had exceeded the EP `s requests.

In fact it looks like the EP and the Council of Ministers are in agreement on which connection the new OLAF should have with the Commission and thereby rejects the suggestion made by the Commission that OLAF should be completely free.

The EP switched alliances from the traditional alliance with the Commission to an alliance with the Council of Ministers in process nr.1; the UCLAF process. Thereby the Member States perception of what OLAF should be like is emerging through the Council of Ministers. Member State `s preferences are again on the arena in the debate about what the new OLAF should be like.

I would expect the sector organisation of UCLAF to lead the policy processes within the institution and away from the national influence. This seems to have been the case for a long time. Still, because of UCLAF `s alleged weak performance, the EP as an institutional unit decides that this has to change. To make this change the usual understanding between the EP and the Commission is broken and the Council of Ministers and thereby the Member States is influential on how OLAF should be.

The EP changed alliance partner from the Commission to the Council of Ministers to get their preferences through on how OLAF should be organised. In my Neo Institutional net the EP seemed to be the leading actor and creator of this strategy. Using this net gives me the impression that it was the EP that chose to include the Member States and use an Inter-Institutional Agreement. An Inter-Institutional Agreement is chosen as a result of EP `s increased powers. The EP let the Member States in through the Council on the decisions made, and EP chose them as an ally to get what they wanted. The decision on how to organise OLAF was a result of an Institutional unit `s choice, not a choice made by Member States. It also gives me the impression that in the power struggle between the Commission and the EP, the EP won and strengthened its own power to influence the decisions made. EP comes across

¹⁹⁸ Hayes-Renshaw & Wallace 1997:193

as an actor with its own agenda. (See 1.4. Expected findings looking through a Liberal Intergovernmental or Neo Institutional lens.)

3.1.5. Management problems in ECHO.

Commission staff is divided into statutory (13200 in November 1992) and non-statutory or “external” personnel (4651 in November 1992 or 26,7 per cent of the total).¹⁹⁹ In 2.2.1. Chapter 2 I described situation in ECHO where ECHO `s mandate expanded combined with a massive increase in ECHO `s expenditure. Simultaneously, the original staff left ECHO and even though new ones were hired, they were inexperienced.²⁰⁰ More importantly, they were too few to cope with the increasing workload. To relieve the situation a certain administrative culture rose to the existence. Emma Bonino openly described this culture as administrative malfunctions. External staff was hired. These people supposedly had contracts of a technical assistance character. Still, claims were made that the “external” staff were managing budget lines and committing the Commission in contracts with outside firms. They had duties giving the impression that they were civil servants, doing the same job as statutory staff. In addition, their salaries were funded by the operational budget, money that was meant for food and medicine, instead of the administrative budget. These operating credits were also called “mini-budgets” a phenomenon the Commission had worked to abolish since the early 1990s, according to Erkki Liikanen. Still, the “mini-budgets” phenomenon existed in February 1994 according to Karel Van Miert who was then responsible personnel and administration.²⁰¹ (See 2.2.1. in Chapter 2)

As I look through the Neo Institutional lens I would assume that rules and procedures have an effect on peoples behaviour. In the case of Process number 2: ECHO, there seem to be a significant gap between what is stated as rules of behaviour and how one actually chose to behave in reality.

¹⁹⁹ Spence 1994:65

²⁰⁰ De Europæiske Fællesskabers Tiende Nr. C 143 p.15

²⁰¹ Bulletin Quotidien Europe No 7301 Wednesday 16 September 1998

In fact, employees of the Commission, such as Manuel Marin, seemed to have turned a blind eye to ECHO `s extensive use of “external” staff paid by operational funds. They did so not to enrich themselves or profit from this arrangement in any way. They did so to keep ECHO operative, helping people in need. Whether this is a desirable to a difficult situation is not my concern in this paper. I have chosen a descriptive path, and I simply describe what I see. There was a gap between the rules and the actual response taken. This created a double standard; the official rules on the one hand and the actual behaviour of the other. This contributed to what Mrs. Müller called a culture of mistrust. The mistrust was manifested in the EP `s lack of desire to release funds for ECHO `s projects.

The situation was worsened by what Members of the European Parliament perceived as lack of transparency, that is lack of information from the Commission. There seem to be a discrepancy here also between the rules and actual behaviour. Parliament was entitled to and needed access to all the documents, as “ the one being examined must not decide on what it will be examined” as Mrs. Theato pointed out. In two cases in Process 2:ECHO; both concerning the use of “external” staff paid by operating funds and what Members of the European Parliament perceived of as lack of information, there is a breach of rules when the actual behaviour pattern is described.

The actors do not always do as the rules states that they should do. In this sense my assumption that I would see rule and procedure following in Process number 2: ECHO must be modified. Rules were sometimes broken and this contributed to trigger Process number 3: A: A refusal to give discharge to the budget of 1996, 3: B Motion of Censures and then 3: C The Committee of Independent Experts.

Still, looking through a Neo Institutional lens I detected something that perhaps is more important that whether the rules are actually followed or not. What happens if they are not followed? Does this have repercussions? The answer is yes. There are consequences for breaking rules. Someone is punished.

The punishment did not however take the form of an individual punishment. Few were actually fired or punished otherwise personally.²⁰² The punishment had an institutional character. Institutional units were punished. Instead of individuals, UCLAF was

²⁰² Bulletin Quotidien Europe No 7314 Saturday 3 October 1998 p.10

planned reorganised, ECHO `s funds were frozen and no individual Commissioners were punished, they were disposed of as a College.

As Mr. Santer pointed out himself, the correct response was not to impose sanctions on officials who commit these irregularities for the sole purpose of keeping departments running.²⁰³ As you can see there is also room for forgiveness manifested in the release of ECHO `s funds. A return to rule following could be rewarded. (See 2.2.3. in Chapter 2).

3.1.6. Commission Collegiality and EP Party System.

Another striking feature noticeable through the Neo Institutional lens is that the two first processes, both in the UCLAF and the ECHO process, the Commission and the European Parliament acted as unified actors opposing one another.

The image of the EP as a unified actor later evolves into an image of an institutional unit consisting of several fractions. As the EP Party System kicks in, the EP takes the form of a multiple fractioned unit with political division lines highly visible.

The Commission on the other hand seems united under the shield of Collegiality. This is perhaps partially a result of rules stating that the Commission President could not remove individual Commissioners. This would support Neo Institutionalism statements about how rule affect the actor `s behaviour and what they decide. Rule could make the Commissioners loyal to the College as a whole even if they as individuals have different interests or other loyalties for example party loyalties.

I have already mentioned the possibility that the Commissioners could have a party political background and a loyalty to a specific party. After all Mr. Santer is known for his background in the Social Christian Party of Luxembourg.²⁰⁴ So the Commissioners had a background from different political parties with different ideologies. Did this have an affect on the Commissioners loyalty and behaviour?

I do not think so. I have found no evidence in any of the processes I have followed that suggests party loyalty or behaviour of any of the Commissioners. From a Neo

²⁰³ Bulletin Quotidien Europe No 7316 Wednesday 7 October 1998:11-12

²⁰⁴ Cini 1996:202

Institutional outlook it seems as if the Commissioners have had loyalty to one thing; the Commission as a College. In all of President Santer`s statements that I have looked into in Chapter 2, I find nothing but loyalty to the College.

However, the EP might want the Commissioners to be influenced by Party Politics. This would strengthen EP`s position towards the Commission. In fact, this would constitute a development towards a parliamentary system. However, in my case I have found no evidence to support suggestions made about Party loyalties of Commissioners, only loyalty to their College.

Nevertheless the EP did hold the Commission accountable and the Commission did resign. This could be an indicator of a parliamentary system on its way. This would mean more power to the Parliament and increase the supranational features of the EU. Therefore my assumption made in 1.4. Chapter 1 regarding increased autonomy is strengthened.

Let us see if we can find other indications of a EU Party System. Can we find examples of EP Party Groups functioning as actors and were the MEPs act on their loyalty to their trans-national EP Party Group instead of their nationality?

The Socialist Group in the EP launched a motion of censure against the Commission. Their objective was to restore confidence in the Commission, and reject their own proposal of censure.

A spokesman of the Socialist Group stated that the situation had been improved; hence there was no need to censure the Commission. The PES seemed as a cohesive EP Party Group in this situation. There were no mixed signals from different MEPs in the Socialist Group, and Pauline Green seemed to genuinely speak on behalf of her Group when she stated that her Group had always been very active in the fight against fraud. She wondered why only Socialist Commissioners had been targeted. Later on she also implied that she questioned the motive of the criticism and implied that the motive was to undermine the Socialists and enhance other EP Party groups to improve their election results in the EP elections of June 1999.²⁰⁵ By doing so, she gave the impression that she was not only speaking on behalf of the PES Group, but more

²⁰⁵ Bulletin Quotidien Europe No7378 8 January 1999 p.4

importantly, she was defending socialists across the institutional units and across national division lines. She implied that Mr. Marin and Mrs. Cresson had a common interest, perhaps even a common identity with other Socialists in the European Union. It seemed as though a common political ideology could unite the Socialist Commissioners with the members of the PES, despite the fact that they came from different institutional units and despite the fact that they came from different nation states. Party politics seem to have brought Socialists together, meaning their behaviour could to a large extent be explained by party loyalty. (See 2.3. Process number 3:A : A refusal to give discharge to the budget of 1996 in Chapter 2.)

Also the Liberal Group (ELDR), the European Peoples Party (EPP), the Green Group (G) and the Union for Political Union (UPE) seemed united. They behaved rather cohesively, but all four of them opposed the Socialist Group. There was a slight difference between James Elles' statement where he listed points that the Commission should adopt like the establishment of an anti-fraud bureau and code of conducts and that of Wilfried Martens who argued that the Socialist Group were trying to conceal the responsibility of certain Commissioners.²⁰⁶

According to Mr. Martens a plan on how and when to reform the Commission's procedures was needed.²⁰⁷ I think there is a slight difference between these two statements, however the statements seem to be complementary and not opposing each other. All in all the EPP seemed united, even though different members stressed different factors as their reason of dismay. (See 2.4. Process number 3:B: Motion of Censures Chapter 2).

All these EP Party Groups reminded the Socialist Group of the EP's role as a watchdog over the Commission. Hence, it looks like they reminded Mrs. Green and her Group that her role as a MEP is not to support the Commission, but to hold them accountable. In this respect it seems as though Mr. Cox (Liberal), Mr. Elles (EPP), Mr. Boge's (EPP) and Mr. Marten's roles were dual.

²⁰⁶ Bulletin Quotidien Europe No7382 Thursday 14 January 1999.

²⁰⁷ Bulletin Quotidien Europe 7381 Wednesday 13 January 1999 p.4

Firstly, they behaved as a member of a political group opposing actions of a political rival Political Group. They opposed the Socialist Group and their support of the Socialist Commissioners Mr. Marin and Mrs. Cresson.

Secondly, the Liberals and the European Peoples Party stressed their identity as Members of the European Parliament. They enhanced the role of the EP, and spoke as if their institutional unit (EP) had interests that did not coincide with that of the Commission. In their view (the representatives of both the Liberals and the EPP) individual Commissioners should be held accountable, and it is the role of the EP to hold them accountable. It seemed as though they tried to strengthen their institutional unit the European Parliament `s position towards the Commission. (See 2.4. Process number 3:B: Motion of Censures Chapter 2).

The censure suggestions show us that the EP Party Groups sometimes succeed in behaving as a EP Party Group and sometimes not. From a Neo Institutional perspective this situation was a practical example where the Groups managed to stand together as a Group. This example gives support to the assumption of institutional units or EP Political Groups functioning as an actor other than nation states. It also gives support to the assumption that the actors' behaviour is affected by their perception of identity and role as part of a political party. It also supports the assumption that these actors define their own interests and their work to increase their capacity to affect policy processes. It is an example of a Party System to be, and thereby a stronger European Parliament.

Apart from EP Party Groups functioning as actors, there could be an even more important indicator of Party Politics. A Neo Institutional lens allows us to see there is a chance that the EP Party Groups formed alliances with other EP Party Groups on the same side on the left-right axis. If EP Party Groups were lined up according to a right-left axis, this would indicate that the EP Party Groups did not only act cohesively. The Party System was so advanced that right-left cleavage was an organising factor in

Process number 3 B: Motion of Censure which in turn triggered Process 3:C The Committee of Independent Experts and ultimately resulted in the Commissions resignation.²⁰⁸

When the Socialist withdrew their motion of censure, they launched another idea; they demanded an investigation by an independent group of experts. Two other EP Party Groups backed the PES Group. That was the European Radical Alliance (ERA) and the Union of the European Left (UEL).

The Radical Left is a result of national political parties that were formed as a response to the Russian Revolution and later the Independent Socialist parties that opposed the Social Democrats.²⁰⁹ These are to the left of the PES on the right-left axis, but they formed an alliance supporting the PES `demand for an independent investigation.

I think this was an indication of a right-left axis that actually had an affect on MEPs behaviour in this motion of censure process.

Evidently there were obstacles for such a right-left axis to take full effect.

There was the matter of Europe of Nations (EN) who launched their own a motion of censure, which Mr. Fabre-Aubrespy called a “true motion of censure”.

They did not seem to fit in on the left-right axis.

In fact, some would say that they were an “anti-system” element, which did not care whether the EP or the EU functioned effectively. The reason why they formed a EP Party Group in the first place was to satisfy the EP `s own rules for finance and staffing, as explained earlier.²¹⁰ Perhaps they are more easily identified on the supranational versus intergovernmental axis.

There were further indications of an EP Party Group that did not follow the right – left axis. I am referring to the Green EP Party Group and its ambivalent behaviour. Even though the Greens seem to behave cohesively, they do not fit in on the right-left equation.

²⁰⁸ Bulletin Quotidien Europe No 7383 Friday 15 January 1999 p.3

²⁰⁹ Hix & Lord 1997:40

²¹⁰ Hix & Lord 1997:105-106

The Greens was an EP Party Group with a large German national delegation. It had a mixed ideology that consisted of environmental protection and pacifism with a radical agenda for reforming the European economic and political system.²¹¹

They did not place themselves on the left side of the right-left axis as I suspected they would. They placed themselves right next to the EPP and the Liberal Group and supported their draft resolution demanding Edith Cresson and Manuel Marin `s resignation. Even though this suggestion was voted down, the fact that the Liberals, the EPP and the Greens formed an alliance does support the suggestion that the right-left axis explain how the party groups behaved in process number 3:B Motion of Censure, but also in the process leading towards the appointment of the Committee of Independent Experts.

The motion of censures and the demand for an independent group of experts shows us that the EP party groups sometimes succeed in behaving as a unified group based on party loyalty, and that sometimes are able to form alliances on the right-left axis. It is an example of an evolving Party System, and thereby a stronger European Parliament. From a Neo Institutional perspective the policy processes number 3:B and 3:C were channelled through hands loyal to party politics, rather than loyalty to ones nationality.

Apart from the EP Party Groups an institutional unit stood out from the rest as I looked through the Neo Institutional lens. The Conference of Presidents had for example given Herbert Bösch the assignment of writing a report about UCLAF that triggered the debate whether the Commission could handle its own problems. The Conference of Presidents also played an active role in the appointment of the members of the Committee of Independent Experts.²¹² Obviously, the appointment of the Committee of Independent Experts was not a way of doing things that everybody approved of.²¹³ The most frequent counter argument was that the Committees that already existed should be used instead of an independent committee of experts. Three Committees were suggested instead: EP `s Committee on Institutional Affairs, the Committee on Budgetary Control and the Committee of Enquiry.

²¹¹ Hix & Lord 1997:38-40

²¹² Bulletin Quotidien Europe No 7391 Wednesday 27 January 1999 p.7

²¹³ Bulletin Quotidien Europe No 7393 Friday 29 January 1999 p.5-6

The important things here are the procedures that the Conference of Presidents chose for appointing the Committee of Independent Experts.

There was a majority in the EP for the founding of the Committee of Independent Experts. Still, the Conference of Presidents made an impact on what criteria the members should be picked by and finally the actual choice of members.

The Conference of Presidents also stated what the report of the expert should contain and their mandate.²¹⁴

By the time it was made public who was picked as a member of the Committee, it seemed as though the differences were settled. It seems like the Conference of Presidents functioned as an arena for dispute settlement. The President of each EP Party Group seemed to have found a way to make it work, although Mr. Fabre-Aubrespy from the Europe of Nations opposed the solutions made. He objected to the candidates who were selected because of what he saw as a marked commitment and political career which according to him could be a risk to the committee's independence. Mrs. Green's point was that the Committee of Independent Experts was needed to avoid "political party nomination". (See 2.5. Process number 3:C: The Committee of Independent Experts Chapter 2).

Mr. Gil-Robles (President of the EP) seemed to have been able to unite the EP Party Groups. They shared the costs of having the independent committee with the Commission.

Still, the Conference of Presidents appears to be a body that manages to unite the different EP Party Groups and lay the premises on how to solve things.²¹⁵

They took important decision on how to handle the situation. They seemed to be able to represent the European Parliament towards the Commission and they seem to be able to stand their ground. Nation states were not involved at all in this issue. The appointment of the Committee of Independent Experts was a result of what the EP wanted and the procedures set by the Conference of Presidents. (See 3.1.3. The Conference of Presidents in Chapter 3.) The Committees of the EP was not used, but it

²¹⁴ Bulletin Quotidien EuropeNo 7391 Wednesday 27 January 1999 p. 7

²¹⁵ Hix & Lord 1997:131

was the institution that chose how to deal with the situation. The Conference of Presidents functioned as an actor on behalf of the EP. Surely, this gives the process number 3:C Committee of Independent Experts an image of a Neo Institutionalism.

3.2. Liberal Intergovernmentalism.

Looking through a Liberal Intergovernmental lens the actors in the processes leading to the Commissions resignation are representing nation states or acting with the national interest at heart. National Party delegations from the Member States are not accepted as actors, once the national preferences are set. The National Party delegations, weak EP Party discipline and MEP`s national careers can sometimes destroy the cohesiveness of EP Party Groups and thereby trans - national party politics. From a Liberal Intergovernmental perspective the trans - national division lines are too weak to have any real affect on the decisions made. The national division lines are far stronger and people`s behaviour particularly in Process number 3:A Discharge of the budget of 1996, can be explained by national division lines and to peoples nationality. Reports are discussed in the Parliamentary committees, and there seem to be an aim in the European Parliament to settle disputes on the lowest level possible, meaning the EP Committees.²¹⁶ If political issues addressed in a report is not settled there, the matter is discussed further in the EP Party Groups as a whole. This increases the risk of inconclusiveness. The more people discussing an issue, the more opinions there are on the matter. The more opinions there are, the more difficult it is to come to a conclusion for the EP Party Group. If the EP Party Groups do not have a cohesive conclusion, it is hard for the EP Party whip making the MEPs vote together as an EP Party Group.

Lack of cohesiveness makes the EP Party Group weaker and its ability to take initiatives is weakened. This could also lead to chaotic and inconsistent decision-making particularly if several EP Party Groups are indecisive. Thereby their ability to function as actions with an impact on policy processes is minimised.

²¹⁶ Hix & Lord 1997:120-125

In addition many of the reports are just read by the European Parliament committee members.²¹⁷ The workload is so heavy that everybody cannot read everything. Their whip is their guidance for what to vote. The whip simplifies the decision – making process and guides the MEP through the jungle of information. There are limits to what the whip can do. Only a small proportion of votes are recorded, with the result that it is simply impossible to check how group members have voted. The whips therefore often see to attendance, but not what they actually vote.²¹⁸

Another important argument is that whips only work if the MEP sees their career within the EP on a long-term basis. If they think their national career is more important, they would be more concerned about not voting for things that would upset the national public²¹⁹.

One of the reasons why it is hard to make the MEPs loyal to their Group in the EP is that most of them begin their careers in national politics and naturally feels loyalty to the national party first of all.²²⁰ It is the national parties that chose the candidates and they also define the political issues and the arguments in the campaigns.

Most MEPs do not see their membership in the EP as their most important career.

Most of them already have a career in their own country. If they get a position in their nation state, they often leave their post as MEP. That is why they often only serve 3 ½ years of the total 5 years period.²²¹

Since many of the MEPs still hold positions in their nation state and often consider place in the EP as temporarily, they are interested in keeping their positions at home. It is important to them to be on their party `s national list as prominent as possible. They want the top positions on the party list.²²²

It can be hard for them to come back to their nation state and explain their behaviour in the EP, if it is not in coherence with what their national parties want. The MEPs risk being reprimanded at home with a less prominent place on the national party list or maybe not be on the list at all. Since this is their chance of getting an elected position

²¹⁷ Hix & Lord 1997:122

²¹⁸ Hix & Lord 1997:136

²¹⁹ Hix & Lord 1997:136

²²⁰ Hix & Lord 1997:84

²²¹ Hix & Lord 1997:86

²²² Hix & Lord 1997:84-87

in a national parliament or local or regional government, this could have an impact on how the MEPs behave in the EP.

The fact that the MEPs are recruited from national parties in Member States and the EP Party Groups do not have a recruiting system of their own and the fact that the MEPs do not stay long in EP makes Party Group loyalty in the EP harder.²²³

The image of cohesive EP Party Groups is overrated. Some of the national party delegations within the EP Party group can be quite dominating. A Liberal Intergovernmental outlook refutes the idea of national party delegations being actors after the national preference formation. Nevertheless it opens for the possibility that national party delegations can sometimes destroy the cohesiveness of EP Party Groups and thereby trans – national party politics. This opens up the possibility of MEPs voting along national division lines, meaning the Germans could vote together whether they are Socialists or Christian Democrats.

Some national party delegations even meet in the third week when the EP Party Groups meet.²²⁴ They are eager to find out the exact details of reports so they can sort out whether the suggestions made in the reports will give them trouble in their nation state or not. They would also try to find possible trade-offs to get the deal through if that is what they want. Even the President of the EP Party Groups often asks the leaders of the national delegations what their position is.²²⁵

These factors seem to underline the national division lines and blur the EP Party Group division line. Party politics becomes more blurred and nationality is brought out in the open. If the national party delegations do not dominate the MEPs, this creates more room for co-ordination amongst the EP Party Groups and thereby trans-national party politics.

Though, there are limits to people`s loyalty to their EP Party Groups.

As you can see efforts are being made to reach consensus within the EP Party Groups. If a national delegation has been outvoted in its EP Party Group, the national party delegation can decline to support the common line in the plenary vote. Being a

²²³ Hix & Lord 1997:84-87

²²⁴ Hix & Lord 1997:126

²²⁵ Hix & Lord 1999:126

dissident from the EP Party Group is not always bad because they can form an alliance across the political divide to compensate for votes lost in their own camp.²²⁶ It is possible to defect from one's EP Party line both for individuals and whole national delegations. This will be illustrated by an example from Chapter 2, process number 3:A: Discharge of the budget for 1996, where the Committee on Budgetary Control (CoCobu) seem to have played a central role.

Two political Groups are different from the rest by their effort to behave cohesively. Both the Green Group (G) and the Socialist Group (PES) had leaders, Mrs. Aelvoet (G) and Mrs. Green (PES) that declared that their Group would vote the same. The Greens would vote no to discharging the 1996 budget, the Socialist Group (PES) would vote yes. They announced that their intentions were to vote on the basis of their political Group across national boundaries.

Nevertheless, it was not quite as easy as it seemed.

Mrs. Green had problems keeping her group together and other socialists openly said that they would vote differently than the socialist official view.

Klaus Hänsch (German PES) openly opposed Mrs. Green's tactics, and said that the Commission should resign. He was not the only one who opposed Mrs. Green's arguments to vote yes to discharge as a Group. (See 2.3. Process number 3:A: A refusal to give discharge for the 1996 budget Chapter 2)

Rosemary Wemheuer (German PES) was the Socialist Group spokesman in the Committee of Budgetary Control. Her tasks included articulating the groups' position in debates, coordinate the groups' activities and function as a whip, check the attendance of group members, find replacements if members that could not be present and negotiate with the other groups over which procedures to use in a specific situation. Rosemary Wemheuer (German PES) resigned in protest at the Socialist Group's refusal to support cross-Country moves to reject the 1996 budget.²²⁷

The task as party whip must be particularly difficult when one disagrees with the party line, such as in Wemheuer's case.

Who else were against giving the Commission discharge?

²²⁶ Hix & Lord 1997:128

²²⁷ [http:// www.epp-ed.europarl.eu.int/press/pcommun/com521_en](http://www.epp-ed.europarl.eu.int/press/pcommun/com521_en)

Diemund Theato (German EPP) the Chairman of the Committee of Budgetary Control strongly opposed giving discharge to the 1996 budget.

What do these people have in common, apart from the fact of being against discharging the 1996 budget. The answer is their nationality. They are from Germany, but they are not from the same political group because Diemund Theato is a member of the European People's Party and the others are Socialists.

Using Liberal Intergovernmental theory as a lens it seems as though Mr. Elles' assessments were right. (See 2.3. Process number 3:A: A refusal to give discharge to the 1996 budget Chapter 2). The national boundaries were the division lines rather than the party lines. In the vote in the Committee of Budgetary Control the EP Political Groups were divided and not united. Both the EPP (Conservatives and Christian Democrats) and the ELDR (Liberals) were split down the middle.

Even though strong efforts were made by the Socialist leader to vote as a group, this strategy seemed to fail in the vote on December 10 1998 in the Committee on Budgetary Control. National boundaries seemed more important to the MEPs than the Party lines. The actors involved acted according to their loyalty to their nation state. They voted as Germans, not as socialists. Still, it is important to take note of the fact that they were not representatives from their country's foreign office, giving the official view of Germany as a nation state. Nonetheless, the image of national division line as the guidelines of behaviour is clear. The national division lines are enhanced further by the fact that neither the EPP nor ELDR were able to vote on the basis of EP Party lines. Loyalty to one's nation state does matter. National division lines seem to explain some of the MEP's behaviour in the Committee of Budgetary Control in the matter of the budget of 1996.

The reason for this is unclear. One of the reasons for some of the MEPs to vote as Germans and not as socialists is perhaps Germany's extensive contributions to the EU budget. I would think that most Germans were highly aware of this fact and considered it to be in Germany's interest that their contributions were handled well. In addition, this case was extensively covered in German newspapers. I think it is fair to assume that many Germans were better informed about the work in the EP committees than usual, because of information in German newspapers. Perhaps the MEPs with a German

nationality were anxious that they would be punished at home if they voted for discharging the budget of 1996. After all, it is likely that they would want a political career back in Germany. They would also need support from fellow Germans if they were to be re-nominated as a MEP candidate.

Since the Presidency of the European Council alternates between the Member States it was Germany`s turn in the first half of 1999. This gave Germany the chance of influencing EU`s future strategies and Chancellor Schröder had a meeting with Mr. Santer about Germany`s role. First of all this gave Chancellor Schröder the opportunity to front Germany`s interests and preferences when sketching EU`s future. His visit also gave Schröder the chance of influencing German MEPs in the Socialist EP Party Group.

Again the question of loyalty and national division lines versus party division lines came up. Chancellor Schröder was asked whether he would advise European Social-Democrat MEPs not to vote on the motion of censure?

He replied that he would not give such advice in public. As I looked through the Liberal Intergovernmental lens this left me with the impression that the socialist Chancellor Schröder was very perceptive of the idea of German Socialist MEPs. Chancellor Schröder looked familiar with the idea of the German Socialists operating as a group. This group was highly sensitive towards German national interests acting as Germans. (See 2.4. Process number 3:b: Motion of censures Chapter 2).

Chapter 4.

4.1. Concluding arguments.

I set out to explain the resignation of the Commission of the European Union as a result of process 1: the UCLAF process and process 2: the ECHO process that triggered the third process 3: A The refusal to give discharge to the 1996 budget, 3:B Motion of Censures and 3:C The Committee of Independent Experts, using Neo Institutional and Liberal Intergovernmental theories as conceptual lenses.

These lenses led me to what data material to collect and functioned as pillars in my research design so that my conclusion matches my initial goal.

The Commission `s resignation seemed at first glance a result of a series of actions all entangled. Making sense of this process was hard but as I structured my data material in time, using a timeline, certain factors seemed more important than others. These factors such as the missing ECHO funds and UCLAF `s investigation of the matter and alleged lack of independence seemed to escalate the decision not to give discharge to the 1996 budget, which later led to motion of censures and the establishment of the Committee of the Independent Experts. Ultimately this led to the Commissions resignation. However using Neo Institutional and Liberal Intergovernmental theories as lenses, would bring out different things in the process as a whole according to which lens I looked through.

Looking through a Neo Institutional lens some things is clearer than others in explaining the Commissions resignation. The institution itself becomes important, specifically institutional units such as the Commission and the European Parliament. In fact the European Parliament and the Commission behave as actors, each with an agenda of their own. Both the Commission and the European Parliament seemed to want autonomy to realise their own interests.

The Commission wanted to run its ECHO program and increased ECHO `s funds. External staffs were hired and their salaries were paid out of the operational budget, meaning money that was intended for food and medicine. At the same time money seemed to disappear without anyone being able to account for them. The Commission

found themselves in trouble and they wanted their own unit UCLAF to clean up the mess, thereby having more control with how the ECHO troubles were dealt with. But UCLAF had a sector-oriented structure that led to co-ordinating difficulties and a low degree of influence from Member States. The European Parliament and the Council of Ministers were unhappy about that and wanted UCLAF to be reorganised. The Commission `s response was to make the new OLAF totally independent against the wishes of the European Parliament.

The European Parliament wanted a bigger influence on the policy processes that ran through the EU in general. They want to strengthen their own position vis-a-vis the Commission, thereby shifting the power relationship in their favour.

More specifically the European Parliament wanted the new OLAF to have a freer role but still connected to the Commission. They wanted to strengthen UCLAF and support them in their investigations of the Commissions programs such as their humanitarian aid programs dealt with by ECHO.

The European Parliament realised that they needed an ally to strengthen UCLAF and so they turned to the Council of Ministers for assistance.

The European Parliament got the assistance that they wanted and their preferences on how the new OLAF should be organised was met.

Still, the European Parliaments confidence in the Commission was severely damaged and the European Parliament refused to accept the budget for 1996.

Other actors emerged on to the arena. Neo Institutionalism allows us to see even smaller units such as EP Party Groups and rules like Majority voting and the Minimum demand of MEPs to form an EP Party Group. These rules worked as an incentive to the formation of these EP Party Groups and eventually allowed them to have a significant affect on the process leading to the Commission `s resignation. European Parliament Party Groups were acting on their loyalty to their trans-national European Parliament Party Group instead of their nationality. This comes to light in the Socialist `s launch of their motion of censure, a motion that was an attempt to restore the European Parliaments confidence in the Commission. The party identity becomes apparent when the leader of the socialist EP Party Group Pauline Green argues that only socialist were being targeted and that this is a scheme in a larger plan to

undermine socialists and to enhance the Liberals and the EPP in the coming EP elections June 1999. Party identity also is highly visible in the Green Group, the Liberal Group (ELDR) and the Conservative and Christian Democratic Group (EPP) response. All four of these groups reminded the Socialist Group of the European Parliament's role as a watchdog over the Commission. Their job was to hold them accountable. In doing so they opposed a political rivalry group and underlined their identity as non-socialists and their identity as Members of the European Parliament. It is an example of people identifying with their EP Party Group and party lines effect on how they behaved. As a result the Party System grew stronger, and thereby the European Parliament.

Apart from units such as EP Party Groups, there are units within the European Parliament such as the Conference of Presidents that grabbed hold of the situation and that had an effect on this process. The Conference of Presidents effect on the process becomes apparent in the appointment of the members of the Committee of Independent Experts. They took charge of the situation and excluded already existing EP Committees from writing the report. The Conference of Presidents had a decisive role in deciding who was going to be in this committee to begin with. Last but not least, they decided what the report of the Committee of Independent Experts should contain and their mandate. The Conference of Presidents managed to unite the EP Party Groups and behaved as an agent for the European Parliament. The Conference of Presidents gave the European Parliament a weapon creating the Committee of Independent Experts. A weapon the European Parliament used to inflict the fatal wound on the Commission.

Looking through a Liberal Intergovernmental lens the actors in the processes leading to the Commission's resignation are representing nation states or acting with the national interest at heart. National division lines are of paramount importance. National division lines overrides sector oriented structures and party division lines. Trans – national division lines are too weak to have any real affect on the decisions made. There are a series of reasons for this.

First of all there are flaws in how disputes are settled in the EP Committees. If the political issue is not solved there the matter is discussed further in the EP Party Group as a whole where the number of people discussing the issue is increased. Thereby the risk of inconclusiveness is increased and the EP Party Group `s ability to take initiatives are weakened.

The EP Party Group whip has an extremely difficult job trying to make the MEPs vote together as an EP Party group with all this inconclusiveness. The votes are often not recorded, so the whip `s job is reduced down to checking attendance.

The MEPs also value their carer in their nation state higher and they are therefore sensitive to what is going on in their nation state. After all they need their national party to re-nominate them and put them on their list both for national elections in their nation state, but also for another term as MEPs in the European Parliament.

Another factor that diminishes the impact of EP Party Groups on policy processes is national party delegations. EP Party Groups are made up of different national party delegations. National party delegations are eager to find out whether there are policy issues that are decided on in an EP Committee that is disadvantageous to their nation state. Some national party delegations dominate their EP Party Group and the national division lines become more important. The national party delegations or individual MEPs can even decline to support the common line in the plenary vote. This can effectively ruin trans – national party politics.

Looking through the Liberal Intergovernmental lens the failures of EP Party Groups in behaving cohesively becomes apparent. The trans – national party lines becomes less significant. What emerges are the national division lines, the strength of the national party delegations and the people `s personal perception of themselves as someone acting with their national interest at heart.

What rises to the forefront is how national division lines played a decisive role in the European Parliaments Committee on Budgetary Control `s vote on whether or not to recommend discharge being given to the 1996 budget.

The leader of PES Pauline Green stated that the socialist members in CoCobu would vote yes to give discharge to the 1996 budget. The German national delegation within the Party of European Socialists (PES) was powerful enough to have an impact on

their behaviour. More importantly the chairman Dietmund Theato (German EPP) also voted no. She was from the European Peoples Party (EPP). What these three people had in common is their nationality. They voted as Germans and national division lines guided them in their behaviour.

The national division lines are enhanced further by the fact that neither the EPP nor ELDR were able to vote on the basis of EP Party lines. Loyalty to ones nation state and the possibility of being exposed to repercussions by ones fellow countrymen explains how these MEPs behaved. They risked not being nominated for important positions at home and not being re-nominated to be a MEPs. Above all they acted out of an understanding that this was not in the best interest of Germany `s tax-money and Germany `s best interest in general.

Germany `s preferences were also important when Chancellor Schröder visited Mr. Santer and discussed the situation with him. Germany was to hold the Presidency of the European Council in the first half of 1999. Chancellor Schröder seemed highly aware of the fact that German socialists would be voting on a motion of censure. This trip gave him the opportunity to influence them and explain Germany `s official preferences to them. However he did not admit doing so in public.

The story about how the Commission resigned is not however a story about how nation states preferences rules. Even though there are sides to this story that matches that of people acting with the national interests at heart and where national division lines turns the process in the Member State `s direction such as in the vote in CoCobu, the Commissions resignation can hardly be explained as the result of a Liberal Intergovernmental process. The process that eventually caused the Commission to resign is distinctly Neo Institutional. This is a story about an institution with a past that has implications for the future when mistakes dated back to 1992 had consequences for 1999.

The rules, norms and institutional structures of the institution evolved through time and had an impact on the way people behaved in this process. The President of the Commission was prohibited from removing individual Commissioners, the MEPs formed and upheld EP Party Groups and the European Parliament `s Conference of

Presidents made the EP Party Groups come to an agreement on the Committee of Independent Experts based on norms and rules already in existence.

This is a story about how people develop a shared identity by being within a specific institutional unit such as the European Parliament or the Commission, or by being in the same EP Party Group, and by going through the same learning experience.

It is about how these learning experiences and these identities form different agendas on what is in their institutional units best interest and how people act accordingly.

This is a story about a process where fraud investigations were basically led through structures that were sector oriented in UCLAF. When Member States got more influence over this fraud-investigating unit, it was because other institutional units such as the European Parliament requested this. The sector oriented structures and the party division lines take precedence over national division lines. Clearly this is a highly integrated system that takes hold of this process and pushes the process into the hands of institutional rules and EP Party Groups and leads the process away from the hands of nation states. This has consequences for the European Union as a whole. It means that the European union can no longer be described a tool in the hands of Member states. It means that the institution cannot be designed by Member States to fit their national preferences. The institution itself has an impact on what it is and what it will be.

Therefore this case study has a wider meaning than just explaining the Commissions resignation as the end result of a Neo Institutional process. This is a case study where analytic generalisations can be made and where Neo Institutionalism gains support. This one case study supports the theoretical propositions outlined in Neo institutionalism and thereby strengthens it as a theory. When putting Neo Institutionalism to the test it comes out stronger than before.

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